BLUMU
AND
RIEFS

Nos. 16-74, 16-86 & 16-258

FILED
JAN 17 2017
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

Supreme Court of the United States

ADVOCATE HEALTH CARE NETWORK, ET AL., *Petitioners,*

v.

MARIA STAPLETON, ET AL., *Respondents.*

SAINT PETER'S HEALTHCARE SYSTEM, ET AL., *Petitioners,*

v.

LAURENCE KAPLAN, *Respondent.*

DIGNITY HEALTH, ET AL., *Petitioners,*

v.

STARLA ROLLINS, *Respondent.*

On Writs of Certiorari to the Third, Seventh, and Ninth Circuits

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JOINT APPENDIX
VOLUME II OF II

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PETITIONS FOR WRIT OF CERTIORARI FILED JULY 15, 2016 IN 16-74 AND ON JULY 18, 2016 IN 16-86 AND ON AUGUST 29, 2016 IN 16-258
CERTIORARI GRANTED IN ALL CASES DECEMBER 2, 2016

TABLE OF CONTENTS

Page

VOLUME I

No. 16-74

List of Relevant Docket Entries, *Stapleton, et al. v. Advocate Health Care Network, et al.*, No. 1:14-cv-01873 (N.D. Ill.) 1

List of Relevant Docket Entries, *Stapleton, et al. v. Advocate Health Care Network, et al.*, No. 15-1368 (7th Cir.) 3

Bylaws of Advocate Health Care Network (Nov. 20, 2013) 6

Covenantal Agreement between Advocate Health Care Network and the Metropolitan Chicago Synod of the Evangelical Lutheran Church in America (Aug. 16, 2007) 40

Covenantal Agreement between Advocate Health Care Network and the Illinois Conference, United Church of Christ (Dec. 2008) 46

Listing in Evangelical Lutheran Church in America Directory (2016) 54

Listing in United Church of Christ Yearbook (2016) 55

IRS Private Letter Ruling (Mar. 7, 1991) 57

IRS Private Letter Ruling (Nov. 3, 1998) 70

Plan Restatement (Jan. 1, 2009) 110

Class Action Complaint (Mar. 17, 2014) 237

Evangelical Health Systems Corporation Master Pension Trust Agreement (1993) 306

TABLE OF CONTENTS—Continued

Page

Excerpts of Minutes of Executive Session, United States Senate, Committee on Finance (June 12, 1980) 344

No. 16-86

List of Relevant Docket Entries, *Kaplan v. Saint Peter's Healthcare System, et al.*, No. 3:13-cv-02941 (D.N.J.) 349

List of Relevant Docket Entries, *Kaplan v. Saint Peter's Healthcare System, et al.*, No. 15-1172 (3d Cir.) 352

Amended and Restated Bylaws of Saint Peter's Healthcare System, Inc. (Mar. 1, 2010) 355

Excerpts of St. Peter's Healthcare System Retirement Plan (Jan. 1, 2010) 371

IRS Private Letter Ruling (Aug. 14, 2013) 379

Saint Peter's Entry in Official Catholic Directory (2016) 388

Notice of Request to IRS for Private Letter Ruling (Nov. 21, 2011) 389

Excerpts of Retirement Plan Summary Plan Description (June 1992) 394

Excerpts of SPHS Plan Form 5500s for Years 2005, 1999, 1998, 1992 405

Class Action Complaint (May 7, 2013) 409

Excerpts of Defendants' Answer and Affirmative Defenses (Apr. 14, 2014) 467

TABLE OF CONTENTS—Continued

Page

Certification of Monsignor John Fell (Aug. 8, 2013) 471

Certification of Garrick Stoldt (Aug. 12, 2013) .. 484

Supplemental Certification of Garrick Stoldt (Aug. 28, 2013) 497

Reply Certification of Monsignor John Fell (Oct. 12, 2013) 500

Reply Certification of Garrick Stoldt (Oct. 14, 2013) 502

Certification of Garrick Stoldt (June 2, 2014).... 506

Declaration of Laurence Kaplan (Sept. 18, 2013) 517

Declaration of Bruce Pardo (Sept. 19, 2013) 522

Declaration of Susan Radomsky (Sept. 18, 2013) 526

Declaration of Monica Mosley (Sept. 20, 2013).. 531

Declaration of Laurence Kaplan (Apr. 22, 2014) 535

Declaration of John Matuska (Apr. 27, 2014) 537

Declaration of John Matuska (June 30, 2014) ... 540

VOLUME II

No. 16-258

List of Relevant Docket Entries, *Rollins v. Dignity Health, et al.*, No. 3:13-cv-01450 (N.D. Cal.) 543

TABLE OF CONTENTS—Continued

Page

List of Relevant Docket Entries, *Rollins v. Dignity Health, et al.*, No. 15-15351 (9th Cir.) 545

Declaration of Bernita McTernan (Apr. 21, 2014) 548

Nihil Obstat issued by the Most Rev. George H. Niederauer, Archbishop Emeritus of San Francisco (Nov. 21, 2011) 557

Statements issued by the Most Rev. George H. Niederauer, Archbishop Emeritus of San Francisco (Jan. 23, 2012 and Feb. 17, 2012)... 563

Diocese of Phoenix Statement on the Current Status of Mercy Gilbert Medical Center (Oct. 18, 2012) 569

Amended and Restated Bylaws of Dignity Health and accompanying Governance Matrix (Jan. 17, 2012) 571

Internal Revenue Service, General Counsel Memorandum 39007 (Nov. 2, 1982) 628

Declaration of Samuel F. Hoffman (Apr. 20, 2014) 639

Request to IRS for Private Letter Ruling (Apr. 23, 1993) 645

IRS Private Letter Ruling (Dec. 8, 1993)..... 668

IRS Private Letter Ruling (Mar. 28, 1995)..... 685

IRS Private Letter Ruling (Jan. 31, 1997)..... 696

IRS Private Letter Ruling (Mar. 20, 2000)..... 706

Request to IRS for Private Letter Ruling (Sept. 27, 2012) 716

TABLE OF CONTENTS—Continued

	Page
Class Action Complaint (Apr. 1, 2013)	756
Settlement Agreement between Dignity Health and the Pension Benefit Guaranty Corporation (Oct. 30, 1995)	815
Excerpts of Plan Restatement (Jan. 1, 1989)	825
Excerpts of Master Trust Agreement (July 1, 1989)	862
Resolution of Board of Directors of Catholic Healthcare West (July 20, 1992)	867
Plan Amendment No. 25 (Dec. 21, 2012)	870
Excerpts of Plan Restatement (Jan. 1, 2005)	873
Dignity Health Mission Integrity Committee Charter (Sept. 23, 2012)	911

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. 3:13-cv-01450

ROLLINS,

v.

DIGNITY HEALTH ET AL.,

RELEVANT DOCKET ENTRIES

DATE	NO.	DOCKET TEXT
04/01/2013	1	COMPLAINT against All Defendants (Filing fee $ 350, receipt number 34611084638.). Filed byStarla Rollins. (Attachments: # 1 Civil Cover Sheet).
12/12/2013	84	ORDER by Judge Thelton E. Henderson denying 41 Motion to Dismiss.
1/13/2014	86	Defendants' Answer to Plaintiff's Complaint
03/17/2014	102	Order by Hon. Thelton E. Henderson denying 85 Motion for interlocutory appeal and for stay pending appeal.
07/22/2014	175	ORDER by Judge Thelton E. Henderson granting 91 Plaintiff's Motion for Partial Summary Judgment; denying 137 Defendant's Motion for Partial Summary Judgment.

DATE	NO.	DOCKET TEXT
11/26/2014	205	ORDER by Judge Thelton E. Henderson granting 197 Motion for Certification for Interlocutory Appeal; granting 197 Motion to Stay. The 01/05/2015 Case Management Conference is continued to 02/09/2015. A joint statement on the status of certification shall be due no later than 02/02/2015.
02/27/2015	209	NOTICE OF APPEAL to the 9th Circuit Court of Appeals filed by Dignity Health, Herbert J. Vallier. (Appeal Fee of $505.00, receipt number 0971-9322096 paid) - Pursuant to FRAP 5, 28 USC 1292(b), and 9th Circuit's 2/26/15 Order.
03/04/2015	211	USCA Case Number 1515351 for re 209 Notice of Appeal filed by Herbert J. Vallier & Dignity Health.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 15-15351

ROLLINS,

v.

DIGNITY HEALTH ET AL.,

RELEVANT DOCKET ENTRIES

DATE	NO.	DOCKET TEXT
02/26/2016	1	Filed order (EDWARD LEAVY and MARY H. MURGUIA) in case no. 1480177 on 2262015: Petitioners' motion for leave to file a reply in support of the petition for permission to appeal is granted. The court has considered the reply. The petition for permission to appeal pursuant to 28 U.S.C. § 1292(b) is granted. Within 14 days after the date of this order, petitioners shall perfect the appeal in accordance with Federal Rule of Appellate Procedure 5(d).
07/06/2015	16	Submitted (ECF) Opening Brief and excerpts of record for review. Submitted by Appellants Dignity Health and Herbert J. Vallier. Date of service: 07/06/2015.

DATE	NO.	DOCKET TEXT
09/04/2015	46	Submitted (ECF) Answering Brief and supplemental excerpts of record for review. Submitted by Appellee Starla Rollins. Date of service: 09/04/2015.
10/21/2015	77	Submitted (ECF) Reply Brief for review. Submitted by Appellant Dignity Health. Date of service: 10/21/2015.
02/08/2016	90	ARGUED AND SUBMITTED TO A. WALLACE TASHIMA, WILLIAM A. FLETCHER and ROBERT W. GETTLEMAN.
07/26/2016	98	FILED OPINION (A. WALLACE TASHIMA, WILLIAM A. FLETCHER and ROBERT W. GETTLEMAN) AFFIRMED and REMANDED. Judge: WAF Authoring. FILED AND ENTERED JUDGMENT.
08/15/2016	99	Filed (ECF) Appellants Dignity Health and Herbert J. Vallier Motion to stay the mandate. Date of service: 08/15/2016.
08/29/2016	101	Filed (ECF) Appellee Starla Rollins response nonopposing motion. Date of service: 08/29/2016.
09/01/2016	103	Filed order (A. WALLACE TASHIMA, WILLIAM A. FLETCHER and ROBERT W. GETTLEMAN) Appellants' motion to stay the mandate is DENIED.

DATE	NO.	DOCKET TEXT
09/21/2016	106	Received Supreme Court order dated 09/21/2016. The application for stay presented to Justice Kennedy and by him referred to the Court is granted pending the disposition of the petition for a writ of certiorari. Should the petition for a writ of certiorari be denied, this stay shall terminate automatically. In the event the petition for a writ of certiorari is granted, the stay shall terminate upon the issuance of the judgment of this Court.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Case No. 13-C-1450 TEH

STARLA ROLLINS on behalf of herself, individually, and on behalf of all others similarly situated,

Plaintiff,

v.

DIGNITY HEALTH, a California Non-profit Corporation, HERBERT J. VALLIER, an individual, the members of the Dignity Retirement Committee, and JOHN and JANE DOES, each an individual, 1-20,

Defendants.

DECLARATION OF BERNITA McTERNAN IN SUPPORT OF DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT AND DEFENDANTS' OPPOSITION TO PLAINTIFFS MOTION FOR PARTIAL SUMMARY JUDGMENT

DECLARATION OF BERNITA McTERNAN

I, Bernita McTernan, declare as follows:

1. I am the Executive Vice President of Sponsorship, Mission Integration, and Philanthropy for Dignity Health ("Dignity Health") and serve on Dignity Health's Executive Leadership Team. I have worked at Dignity Health since its inception in 1986. I am responsible for sponsorship, mission integration, advocacy, ethics/justice, ecology, community benefit, and

philanthropy for the overall Dignity Health system. Except to the extent otherwise indicated, I have personal knowledge of the matters stated in this declaration and, if called upon, I could and would testify as to their truth. I also provided a declaration dated June 17, 2013 in support of Dignity Health's motion to dismiss (Dkt. No. 44) which I hereby reaffirm.

The Formation Of Catholic Healthcare West By Its Sponsoring Congregations.

2. Dignity Health's prior name was Catholic Healthcare West ("CHW"). CHW was established in 1986 when two congregations of the Sisters of Mercy merged their ten hospitals. In later years, additional sister orders joined, including Sisters of St. Dominic Congregation of the Most Holy Rosary, the Third Order of St. Dominic Congregation of the Most Holy Name, the Congregation of the Sisters of Charity of the Incarnate Word, Dominican Sisters of St. Catherine of Siena, and Sisters of St. Francis of Penance and Christian Charity (St. Francis Province). These sister orders are known as the "Sponsoring Congregations," which as part of their role ensure that Dignity Health operates with dedication to the healing ministry of Jesus Christ.

3. CHW was created to foster collaborative efforts among Catholic religious orders wishing to sponsor health care institutions that showed common religious bonds and convictions grounded in the tradition and values of the Roman Catholic Church (the "Church") and the healing ministry of Jesus Christ. The Sponsoring Congregations ensure that Dignity Health maintains these bonds and convictions by adhering to Dignity Health's Mission as described in Paragraph 15 below.

4. CHW was organized as non-profit public benefit corporation, and in 1993 had a total of nine Corporate Members, each from, and appointed by, one of the Sponsoring Congregations. As CHW expanded, additional Sponsoring Congregations and Members joined. These Members controlled CHW, including the specific right to adopt or amend the Philosophy and Mission of CHW, and to approve the merger of new entities with CHW, the sale of substantially all of CHW's assets, the dissolution of CHW, the amendment to CHW's bylaws and articles of incorporation. Attached as Exhibit A is a true and correct copy of the Restated Bylaws of CHW Bylaws effective July 1, 1988, including CHW's Governance Matrix (Attachment A to the Bylaws), as maintained by Dignity Health in the normal course of its business.

5. In addition, members of the Sponsoring Congregations served on a board (the "Corporate Member Board") to which the CHW board of directors reported. Members of the Sponsoring Congregations also served on CHW's board of directors. Attached as Exhibits B and C are true and correct copies of a diagrams showing CHW's governance structure as of February 2, 1995 and February 19, 1999, as maintained by Dignity Health in the normal course of its business.

The Expansion Of CHW Through The Acquisition Of Community Hospitals And Some Of The Events Leading To Its Restructuring Into Dignity Health.

6. Beginning in the 1990s, in an effort to expand the reach of its healing ministry, CHW began to partner with community hospitals. These community hospitals became part of the CHW system under a "community hospital" model. There are currently 15 community hospitals in the Dignity Health system. CHW engaged

in these partnerships with the consent of the local bishop of the diocese in which each hospital operated. At the time these hospitals became a part of the system, the United States Conference of Catholic Bishops' ("USCCB") *Ethical and Religious Directives of Catholic Health Care* ("ERDs") contained guidelines for cooperation with community hospitals. The ERDs are the "rules" for, and are followed by, all Catholic hospitals in the United States, including those Catholic hospitals within the Dignity Health system.

7. Sierra Nevada Memorial Hospital was the first community hospital that became a part of the CHW system on the agreement that it would abide by a "Statement of Common Values" ("SCVs"), which was prepared by CHW in conjunction with the Diocese of Sacramento and modeled after the ERDs. All subsequent community hospitals entering the system have also agreed to operate under the SCVs. The SCVs are substantially similar to the ERDs with the exception of not prohibiting community hospitals from providing contraceptive and sterilization services. Attached as Exhibit D is a true and correct copy of the current SCVs as maintained by Dignity Health in the normal course of its business. The USCCB's *Ethical and Religious Directives of Catholic Health Care,* 5th ed., as obtained from the USCCB's website, www.usccb.org, on April 17, 2014 is attached as Exhibit E.

8. In issuing the 2009 edition of the ERDs, the USCCB omitted an appendix concerning cooperation that had been contained in the 1995 edition. A new directive, Directive 70, also was added to the ERDs in the 2009 edition. Directive 70 provided that "Catholic healthcare organizations are not permitted to engage in actions such as direct sterilization.

9. After the addition of Directive 70 and the removal of the appendix concerning cooperation, some members of the Catholic community expressed concerns that CHW's partnerships with community hospitals placed CHW's Sponsoring Congregations in a position that could cause them to be involved in actions not permitted by the Catholic Church.

The Sponsoring Congregations Reorganize Catholic Healthcare West's Governance And Renames It Dignity Health.

10. In February 2011, CHW's leadership, including the Sponsoring Congregations, Corporate Members, and the Board of Directors, began a nine-month dialogue with the Most Rev. George H. Niederauer, Archbishop Emeritus of San Francisco, through which they reassessed CHW's community hospital model. Due to my role at CHW, I was actively involved in these discussions.

11. Archbishop Emeritus Niederauer and CHW worked with Catholic moral theologians, including Frank Morrisey, Johnny Cox, and Peter Cataldo, who provided opinions supporting CHW's reorganization into Dignity Health. It is my understanding that Archbishop Emeritus Niederauer also consulted with the bishops that have CHW facilities in their dioceses and the Chairman of the USCCB's Taskforce on Health Care.

12. On November 21, 2011, Archbishop Emeritus Niederauer issued a *nihil obstat,* a negative declaration, which stated, among other points, that the "proposed governing restructure appropriately respects the moral teaching of the Roman Catholic Church." Attached as Exhibit F is a true and correct copy of the November 21, 2011 *nihil obstat* issued by the Most

Rev. George H. Niederauer, Archbishop Emeritus of San Francisco, as maintained by Dignity Health in the normal course of its business.

13. The result of this extended and thorough process was a new governing structure through which CHW would be restructured and renamed "Dignity Health," effective January 17, 2012.

14. As part of the restructuring, CHW amended its articles of incorporation to reflect the renaming.

15. Dignity Health would continue to operate and deliver healthcare services in accordance with its mission, as it had done since its founding: "We are committed to furthering the healing ministry of Jesus. We dedicate our resources to: Delivering compassionate, high-quality, affordable health services; Serving and advocating for our sisters and brothers who are poor and disenfranchised; and Partnering with others in the community to improve the quality of life." Attached as Exhibit G is a copy of Dignity Health's Mission, Vision, & Values, as maintained by Dignity Health in the normal course of its business.

16. Shortly after the restructuring, on January 23, 2012 and on February 17, 2012, Archbishop Emeritus Niederauer publicly issued statements stating, among other points, that the revised structure would allow Dignity Health's Catholic hospitals to operate in compliance with the ERDs and that the reorganization is not viewed as the Catholic hospitals' separation from the Church. Attached as Exhibits H and I are true and correct copies of the January 23, 2012 and February 17, 2012 statements issued by the Most Rev. George H. Niederauer, Archbishop Emeritus of San Francisco, as maintained by Dignity Health in the normal course of its business.

17. Under the new governance structure, the canonical responsibilities of the Sponsoring Congregations are separated from the civil responsibilities of Dignity Health's Board of Directors. Through this model, the Sponsoring Congregations have the ability to continue their healing ministry by sponsoring Catholic hospitals while maintaining a partnership with community hospitals through a reservation of rights over essential aspects of the Sisters' mission. A component of this model includes each community hospital's agreement to follow the SCVs and the Sponsoring Congregations' reserved rights over any changes to the SCVs. Attached as Exhibit J is a true and correct copy of a diagram showing Dignity Health's current governance structure.

18. By obtaining the community hospitals' agreement to adhere to nearly all of the ERDs, Dignity Health has extended the Catholic Church's healing ministry of service to a broader population of the poor and other members of the community. Attached as Exhibit K is a true and correct copy of Dignity Health's 2012 Mission Integration Annual Report, as maintained by Dignity Health in the normal course of its business.

19. The new governance structure provides for representatives from the Sponsoring Congregations to form the Sponsorship Council and a new Mission Integrity Committee to ensure that the mission and values of Sponsoring Congregations remain a priority and at the forefront of all of Dignity Health's work.

20. The Sponsorship Council is composed of representatives from each of the current Sponsoring Congregations. The Sponsorship Council manages Dignity Health's Catholic hospitals and extends the Catholic Church's healing ministry through a reservation of

rights over aspects key to the integrity of the Sisters' mission, such as proposed changes to the SCVs-binding on all community hospitals in the Dignity Health system—and oversight of adherence to the SCVs. Additionally, the Sponsorship Council appoints three members to the Mission Integrity Committee. Two Sisters from the Sponsoring Congregations sit on Dignity Health's Board of Directors. One woman religious from the Sponsoring Congregations must be a member of the Board's Executive Committee. Attached as Exhibits L and M are true and correct copies of the Sponsorship Council Charter effective March 23, 2012 and Dignity Health's Bylaws and accompanying Governance Matrix, respectively, as maintained by Dignity Health in the normal course of its business.

21. The Mission Integrity Committee is responsible for providing Dignity Health and its Board of Directors with advice and guidance regarding the healing ministry of Dignity Health, as well as all of Dignity Health's health facilities, subsidiaries, and affiliates. The Mission Integrity Committee monitors Dignity Health's compliance with the healing ministry, the ERDs, and the SVCs. The three members of the Mission Integrity Committee appointed by the Sponsorship Council also approve the members of the Retirement Plans Sub-Committee, which administers and maintains the Plan. Attached as Exhibits N-P are true and correct copies of the Mission Integration, and minutes from the November 11, 2012 meeting of the Mission Integrity Committee respectively, as maintained by Dignity Health in the normal course of its business.

22. Since CHW/Dignity Health's establishment through the present day, it has been dedicated to furthering the healing ministry of the Roman Catholic Church and operates in accordance with CHW/Dignity Health's Mission to achieve that purpose.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 21st day of April, 2014 at San Francisco, California.

/s/ Bernita McTernan
Bernita McTernan

[LOGO] THE ARCHDIOCESE OF SAN FRANCISCO

Office of the Archbishop
One Peter Yorke Way,
San Francisco, CA 94109-6602
(415) 614-5500

Memorandum regarding the Requested *Nihil Obstat* in Directive 68 Ethical and Religious Directives for Catholic Health Care Services

TO: The Six Sponsors of the Catholic Hospitals in the CHW System: Sheila Browne, RSM, Judy Carle, RSM, Lillian Anne Healy, CCVI, Julie Hyer, OP, Maureen McInerney, OP, Patricia Rayburn, OSF, Susan Snyder, OP, Attracta Kelly, OP

FROM: Most Rev. George Niederauer, Archbishop of San Francisco

DATE: November 21, 2011

CC: Ordinaries with Catholic Healthcare West Hospitals in their Dioceses Lloyd Dean, President/CEO

In February 2011, as Archbishop of San Francisco, I convened a group of several California arch/bishops and the Sponsors of Catholic Healthcare West (CHW), whose corporate office is located in the Archdiocese of San Francisco, in order to seek a remedy for the inadvertent morally illicit cooperation of the Sponsors in direct sterilizations performed in non-Catholic facilities that are part of CHW. Previously, in November 2009, the Sponsors along with CHW's governance and executive leadership had started exploring organizational models that would both strengthen CHW's healing Mission and comply with Catholic

moral teaching. Various options were reviewed, including the alienation of all the Catholic facilities, or moving the Catholic facilities into their own system, or joining the Catholic facilities with another Catholic system. Various organizational restructurings were also considered, e.g., a separation ("carve out") of the proscribed procedures, the creation of a new holding company, and a governance restructuring of the operating company. The CHW Sponsors concluded that the governance restructuring would be the best and most achievable option for enabling them to strengthen CHW's healing Mission into the future, for complying with Catholic moral teaching, and for preserving and strengthening the religious identity of their Catholic hospitals in the future. Prior to proceeding with the governance restructuring, the Sponsors are seeking to obtain a *nihil obstat* from the Archbishop of San Francisco, in accord with Directive 68 of the *Ethical and Religious Directives for Catholic Health Care Services:*

> *Any partnership that will affect the mission or religious and ethical identity of Catholic health care institutional services must respect Church teaching and discipline. Diocesan bishops and other Church authorities should be involved as such partnerships are developed, and the diocesan bishop should give the appropriate authorization before they are completed. The diocesan bishop's approval is required for partnerships sponsored by institutions subject to his governing authority; for partnerships sponsored by religious institutes of pontifical right, his nihil obstat should be obtained.*

Because all six Sponsors of CHW are religious institutes of pontifical right, they are seeking a *nihil obstat*. They are requesting it from me as the Archbishop of San Francisco, the location of CHW's corporate office, since the governance restructuring is a fundamental restructuring of the entire system which they sponsor jointly, and not merely of one or another Catholic facility in a particular diocese. As the Archbishop I may use the assistance of experts in moral theology and ethics, and consult with other bishops, but the judgment regarding the *nihil obstat is* my responsibility.

I consulted reputable experts in moral theology, ethics, and canon law, all of whom are convinced that, with respect to the authority, role and responsibilities of the Sponsors, the proposed governance restructure appropriately respects the moral teaching of the Roman Catholic Church. The authors of these analyses and opinions concur that the proposed structure remedies an existing problem of illicit moral cooperation and does not cause illicit cooperation on the part of the Sponsors of the Catholic facilities or on the part of the Catholic facilities themselves. I discussed these analyses with the Ordinaries who have CHW hospitals in their own dioceses and sought their input.

A few key considerations pertain to granting a *nihil obstat* in the present case:

- A *nihil obstat* by definition is a negative declaration that, as the words themselves express, basically says nothing stands in the way. A *nihil obstat* has a limited scope, i.e., determining that there is nothing morally or doctrinally objectionable in the proposed governance restructuring.

- A *nihil* obstat does not imply positive approval or complete agreement with the proposed governance restructuring. *Directive 68* clearly distinguishes a diocesan bishop's authority to approve partnerships for institutions subject to his governing authority and the bishop's authority to grant a *nihil obstat* for partnerships sponsored by religious institutes of pontifical right. The CHW Sponsors are the appropriate Church authority to approve this governance restructuring. The Archbishop is the one to make the judgment that nothing is morally or doctrinally objectionable in the proposed partnership.

Therefore I am granting a *nihil obstat* to the Sponsors of the Catholic hospitals presently in the CHW system, with the following stipulated conditions:

- The name of the new health system will not suggest a direct association with the Catholic Church or its apostolic works. In accord with Canon 216, the restructured corporation will not be recognized as Catholic. I expect that I would be consulted prior to finalizing the name and that we would work together in developing the communications plan to introduce the organizational restructuring and so diminish any potential for scandal or misunderstanding.
- The restated bylaws will be modified to clearly establish that Catholic moral teaching will be the basis for defining moral terms that are used in the *Statement of*

Common Values. For example, terms used in the *Statement of Common Values* such as abortion, euthanasia and assisted suicide are to be defined in a manner consistent with Catholic moral teaching.

- The recusal provisions in the restated bylaws will be removed (these provisions are not considered essential factors in avoiding illicit cooperation). It is my expectation that the two sisters who will sit on the restructured board will continue to be witnesses for human dignity, Catholic teaching, and Gospel values, and thereby exert a positive influence on board decisions impacting services, even though they will no longer be in a majority position of control over the corporation and its secular community hospitals.

- It is clearly understood that my granting of a *nihil obstat* for the proposed restructuring does not convey approval for future acts of the new corporation or the sponsored hospitals that touch deeply upon Church teaching and the mission of Catholic health care.

- As we have all concluded through our consultations, it is essential that this restructuring usher in a period of broadened and more frequent dialogue among our Catholic hospitals, the sponsoring religious communities, and the local bishop in each diocese. This dialogue should include as its foundation the provision of structured independent analyses of both the implementation of the principles of the

Ethical and Religious Directives and the quality of ministry leadership formation.

I want to take this occasion to thank the sponsors and administrators of CHW, the bishops of dioceses in which CHW operates hospitals, and many experts in health care, ethics, moral theology and canon law, who have participated in a nine-month long process that has led to this positive outcome. As we prepare to celebrate once again the season of Advent, I pray that the healing gifts of light and joy and peace may bless all of you in this holy season and in the work of continuing Christ's healing ministry in the years ahead.

[LOGO] THE ARCHDIOCESE OF SAN FRANCISCO

Office of the Archbishop
One Peter Yorke Way,
San Francisco, CA 94109-6602
(415) 614-5500

Statement from Archbishop Niederauer in regard to CHW reorganization as Dignity Health

Embargoed until noon Monday, January 23, 2012

Catholic Healthcare West has developed plans for a reorganization of their health network and a change in name (Dignity Health). The six communities of Catholic religious women who sponsor CHW formally approached Archbishop George Niederauer in February of 2011 to consult him about proceeding with this reorganization. Because Archbishop Niederauer is the bishop of the diocese where CHW is headquartered, it was his responsibility to evaluate the proposed changes in light of the norms of Catholic moral teaching and church law.

Archbishop Niederauer consulted with other bishops as well as the Ad Hoc Task Force on Health Care of the United States Conference of Catholic Bishops. He spoke in depth with the leaders of the communities of religious sisters that sponsor CHW. In addition, he held formal consultations with leading Catholic moralists and authorities in church law who are expert in matters relating to health care.

As a result of these consultations, it became clear that the reorganization of CHW into the new Dignity Health network will enable the sponsoring religious congregations and the Catholic hospitals of CHW to operate in full compliance with the Ethical and Religious Directives for Catholic Healthcare promulgated

by the United States Conference of Catholic Bishops. The reorganization will also sustain the commitment of the non-Catholic hospitals currently in CHW to certain vital principles safeguarding life and ethics which are contained in their current statement of common values. Finally, the newly reorganized Dignity Health is taking steps to increase the ongoing dialogue between their Catholic hospitals and local bishops about vital issues in Catholic health ethics.

For these reasons, Archbishop Niederauer granted a nihil obstat for the reorganization to proceed. A nihil obstat is a declaration that the restructuring does not conflict with the teachings of the Catholic Church. It is his hope and belief that these ministries of health care launched more than one hundred fifty years ago by heroic Catholic religious women of faith and vision and sacrifice will continue to flourish for many decades to come.

[LOGO] THE ARCHDIOCESE OF SAN FRANCISCO

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Catholic Healthcare West Becomes Dignity Health What Does It Mean?

In late January 2012 Catholic Healthcare West (CHW), a San Francisco-based health care system that operates 25 Catholic and 15 non-Catholic hospitals, announced that it had changed its governance structure and name, and would henceforth be known as Dignity Health. Several media headlines proclaimed that CHW undertook this action in order to "pare its ties with the Church" in a "quest to grow." Some of these reports implied that Catholic bishops had approved such a result. These headlines and the stories that accompanied them have left many Catholics and the larger public with the mistaken impression that CHW's Catholic hospitals had become secular health care facilities. This is not the case. I am writing to clarify the situation.

Some time ago, the bishops of the United States determined that Catholic hospital systems may not operate non-Catholic hospitals that do not follow all of the Church's moral and doctrinal teachings. While CHW's Catholic hospitals are expected to follow the Church's moral teachings, it's non-Catholic hospitals were brought into the system under a different protocol that required them to follow Church teaching on abortion, assisted suicide and several other procedures, but allowed them to perform direct sterilizations, which the Church does not permit. This arrangement was unsustainable because, among other

important things, it was confusing for patients, their families, health care workers, Church leaders and others, as they couldn't be certain whether a hospital bearing the name Catholic Healthcare West was Catholic or non-Catholic.

In February 2011, in my capacity as the Archbishop of the diocese in which CHW's home office is located, I initiated discussions with representatives of the six orders of sisters that sponsored CHW to determine how this situation could be corrected. Earlier, in November 2009, the sisters and CHW's board and management had begun their own examination of the problem and had formulated a proposed restructuring of CHW's governance. Under this proposal, CHW would no longer be a sponsored ministry of the Catholic Church - that is, it would become a secular nonprofit health care system governed by a self-perpetuating board, and would change its name to reflect that reality.

The new system would operate both Catholic and non-Catholic hospitals, and the six orders of sisters would, within the new system, continue to sponsor and retain important controls over the Catholic hospitals. The Catholic hospitals would be required to follow all of the Church's moral and social teachings; the non-Catholic hospitals would continue to follow their ethical protocol, which, as noted above, does not allow them to perform direct abortions and certain other procedures. The sisters would be able to veto any proposed changes to this protocol.

The sisters who sponsored CHW expressed their conviction that while this proposal would regrettably end their sponsorship of the overall system, it nevertheless would enable them to continue sponsoring their Catholic hospitals, and continue to exercise a

vital Catholic evangelical influence on the new system's mission and culture. At the sisters' request, their proposal became an important focus of our nearly nine-month-long dialogue.

During this time, I engaged several Catholic moral theologians to analyze the sisters' proposal in terms of its effect on the Catholic identity and ethical integrity of CHW's Catholic hospitals, and consulted widely with both the bishops that have CHW facilities in their dioceses and the chairman of the United States Catholic Conference of Bishops' Task Force on Health Care. I also retained a nationally respected health care consultant to examine the proposal against other possible structures.

Based on these analyses and consultations, late last fall, I determined that the proposed restructuring is consistent with Catholic moral and doctrinal teachings and that the sponsors and their Catholic hospitals are, therefore, free to participate in it. I need to emphasize that my finding that the restructuring is consistent with Church teaching does not imply that I, or any other bishop, believes it is necessarily the best possible arrangement for the sister sponsors and their Catholic hospitals, only that I found no moral reason to object to it.

Will the new arrangement work? Will the sister sponsors be able to sustain and strengthen the Catholic character of their twenty-five hospitals and exercise a profound evangelical influence on Dignity Health's culture and its non-Catholic hospitals? Given the enormous challenges facing today's Catholic hospitals, no one can answer that question with certainty; only time and careful observation will tell. The sisters, whose hospitals have been caring for the poor and sick in the western United States for over 150 years, are

firmly committed both to achieving these ministerial goals and maintaining effective relations and regular communication with the bishops in each of the dioceses in which they sponsor hospitals. I have assured them of my lasting gratitude for their Christian service and my commitment to help them measure and evaluate their progress as they proceed on this arduous, uncertain journey. Most importantly, I have also assured them of my prayers. They and I, welcome yours.

Most Reverend George H. Niederauer
Archbishop of San Francisco

February 17, 2012

The Roman Catholic Diocese of Phoenix

http://www.diocesephoenix.org/news.php?newsmonth=201210&story=863743707

News from the Diocese

Diocese of Phoenix Statement on the Current Status of Mercy Gilbert Medical Center – a Dignity Health Hospital

by Communications Office on October 18, 2012

(Local News)

PHOENIX (Oct. 18, 2012) – The Diocese of Phoenix issued the following statement today regarding Mercy Gilbert Medical Center:

On January 23, 2012, the parent company of Mercy Gilbert Hospital was reorganized form being a Catholic corporation (Catholic Healthcare West) to being a secular one (Dignity Health). In light of this change, Mercy Gilbert was asked by Bishop Olmsted to renew their official recognition as a Catholic institution in the Diocese of Phoenix.

While discussion has been ongoing, to this point Mercy Gilbert has not yet fulfilled the criteria for this renewal. Thus, Bishop Olmsted has a duty to the Catholic faithful to inform them that he cannot state with moral certitude that Mercy Gilbert Hospital provides Catholic health care which is in full conformity with the teaching of the Church. It is, however, his hope that Mercy Gilbert will successfully complete the renewal process, at which time Bishop Olmsted will grant his recognition of their Catholic identity.

The Roman Catholic Diocese of Phoenix was established Dec. 2, 1969, by Pope Paul VI. Led by The

Most Rev. Thomas J. Olmsted, more than 820,000 Catholics call this diverse, vibrant and faith-filled diocese their home.

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AMENDED and RESTATED BYLAWS OF DIGNITY HEALTH

ARTICLE I
NAME; PRINCIPAL OFFICE; DEFINITIONS

1.1 Name. The name of this Corporation shall be Dignity Health (the "Corporation").

1.2 Principal Office. The principal office for the transaction of the business of this Corporation shall be at a location determined from time to time by the board of directors of this Corporation (hereafter, "Board," and each individual member of the Board, "Director").

1.3 Definitions. Capitalized terms used in the body of these bylaws but not defined are defined in Exhibit A of these bylaws.

ARTICLE II
PURPOSE

This Corporation is organized as a California public benefit Corporation and the Corporation's primary purpose is to provide health care services and related support functions. This Corporation operates, directly or through subsidiaries or affiliates, both Catholic sponsored health care services as well as health care services that are not Catholic sponsored, working together to provide a continuum of compassionate, high quality care to its various local communities. Such collaboration enables responsible stewardship of health care resources and helps provide access to care to a wide range of persons, including persons who are poor and disenfranchised.

ARTICLE III
HEALING MINISTRY

3.1 Healing Ministry. This Corporation, pursuant to the legacy of the Sponsors, as identified in these bylaws, is committed to continuing a healing ministry based on the life and works of Jesus in the provision of healthcare services in the communities it serves (the "healing ministry").

3.2 Expression of Ministry. This Corporation shall follow the mission and values of the healing ministry, which are intended to apply to all of its activities and operations. The mission of this Corporation is to deliver compassionate, high-quality, affordable health care; serve and advocate for those sisters and brothers who are poor and disenfranchised; and partner with others in its communities to improve the quality of life. In carrying out the healing ministry, this Corporation shall at all times embrace the values of dignity, collaboration, justice, stewardship, and excellence.

3.3 Ethical and Religious Directives; Statement of Common Values. In striving to fulfill its healing ministry, this Corporation's Health Facilities shall follow the Statement of Common Values, as amended from time to time. In striving to fulfill the Catholic healthcare mission of the Catholic Sponsored Health Facilities, such Catholic Sponsored Health Facilities are bound by the Ethical and Religious Directives for Catholic Health Care Services, as approved and amended by the United States Conference of Catholic Bishops from time to time and applied or promulgated by the local Bishop. The Corporation and the Health Facilities which are not Catholic Sponsored are not subject to the Ethical and Religious Directives for Catholic Health Care Services or to the ecclesial authority of the Roman Catholic Church.

ARTICLE IV
SPONSORS

The Sponsors of this Corporation's Catholic Sponsored Health Facilities are: (i) the Sisters of Mercy of the Americas West Midwest Community, a religious institute of the Roman Catholic Church (the "West Midwest Community"); (ii) the Sisters of St. Dominic of the Congregation of the Most Holy Rosary of Adrian, Michigan, a religious institute of the Roman Catholic Church (the "Adrian Dominican Sisters"); (iii) the Sisters of the Third Order of St. Dominic, Congregation of the Most Holy Name, a religious institute of the Roman Catholic Church (the "Dominican Sisters of San Rafael"); (iv) the Congregation of the Sisters of Charity of the Incarnate Word, Houston, Texas, a religious institute of the Roman Catholic Church (the "Incarnate Word Sisters"); (v) the Dominican Sisters of St. Catherine of Siena, Taos, NM, a religious institute of the Roman Catholic Church (the "Taos Dominicans"); and (vi) the Sisters of St. Francis of Penance and Christian Charity of Redwood City, California, a religious institute of the Roman Catholic Church (the "Redwood City Franciscans") (each a "Sponsor" and, collectively, the "Sponsors").

ARTICLE V
MEMBERSHIP

The Corporation shall not have any voting or non-voting members. All rights which would otherwise vest to the members under the provisions of the California Nonprofit Corporation Law relating to nonprofit public benefit corporations shall vest in the directors. Any action which would otherwise require approval by a majority of all members or approval by the members shall require approval of the Board of Directors.

ARTICLE VI
GOVERNANCE MATRIX

6.1 Rights Reserved to Sponsors. The Sponsors and the Sponsorship Council are hereby granted the specific reserved rights set forth in the Governance Matrix ("Matrix") attached hereto as Exhibit A (which is hereby incorporated by reference and made a part of these bylaws) with respect to certain corporate actions of this Corporation and its Subsidiaries. As provided in the Matrix, the exercise of Sponsor and the Sponsorship Council reserved rights may require the written consent of the Sponsor(s) or the Sponsorship Council before any such actions may be taken or implemented by this Corporation and its Subsidiaries.

6.2 No Action Without Approval. Neither the Board nor any officer or employee of this Corporation, or any Subsidiary, shall take any action requiring approval under these bylaws without first having secured such approvals. In the exercise of their approval rights, the Sponsors, or the Sponsorship Council, or any other persons or entities with approval rights under the Matrix, may grant or withhold approval in whole or in part; or, after consultation with the Board and the president of the organization seeking approval (whether this Corporation or one of its Subsidiaries), the Sponsors, or the Sponsorship Council, or any other persons or entities with approval rights under the Matrix, may recommend, in their complete discretion, such other or different actions as they may deem appropriate. Any approval required of the Sponsors or the Sponsorship Council shall be effective only if delivered to the office of the General Counsel as a written consent. For these purposes, written consent shall mean a writing: (a) expressly stating the approving body's approval of the matter (including any limitations

related thereto, as applicable); (b) the date of such approval; (c) the name and position of the person executing the approval; (d) a statement that the person executing the approval is authorized to communicate such approval; and (e) executed by the person who: (i) in the case of a Sponsor, is the head of the governance body of the Sponsor (e.g., General Superior, President, Prioress, Prioress General, or Provincial Minister), or a duly appointed secretary or other duly appointed designee; or, (ii) in the case of the Sponsorship Council, is the chair, or a duly appointed secretary or other duly appointed designee. A written consent may be transmitted by mail, delivery service or by electronic means (such as PDF), and a copy shall be deemed an original for these purposes.

ARTICLE VII
BOARD OF DIRECTORS

7.1 Powers. Subject to the reserved rights set forth in the Matrix, the activities and affairs of this Corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the Board.

7.2 Number. The number of Directors of this Corporation shall be not less than 9 nor more than 13, with the exact number of Directors to be fixed by resolution of the Board from time to time. At all times, not less than 2 Director positions shall be reserved for women religious of the Sponsors, who shall serve in an individual capacity and not as a representative of a Sponsor or Sponsors.

7.3 Ex Officio Director. The President/Chief Executive Officer of this Corporation shall serve on the Board as an ex officio Director with full voting rights

for as long as he or she holds the office of President/Chief Executive Officer.

7.4 Nomination and Election of Directors. Except as otherwise provided herein, the Executive Committee shall nominate individuals to serve as Directors. In reviewing potential candidates for nomination as Directors, the Executive Committee shall consider the need for diversity in expertise and experience of the Board, the individual's ability and willingness to commit to carrying out the mission and goals of this Corporation as well as criteria and qualifications for Board membership that may be defined in policies and procedures adopted from time to time by the Board. The names of individuals nominated by the Executive Committee shall be submitted to the Board for election by the Board at its annual meeting. If the Board does not elect a particular nominee, the Executive Committee shall nominate a different individual to replace the nominee who was not elected until the nominee is elected by the Board or until the Board determines to leave a vacancy on the Board.

7.5 Term of Directors.

(a) Length of Term. Each Director's term shall begin on July 1 of the first year for which he or she is elected, or the date of election if the Director is filling a vacancy, and continues until the last day of June in the last year for which he or she is elected or until his or her replacement is elected and takes office, whichever is sooner.

(b) Permissible Number of Consecutive Years. Except as otherwise provided in Section 7.3, any Director elected to the Board for the first time or after having been off the Board for the Hiatus Period (defined below) shall serve for a term of one year.

Thereafter, a Director will be eligible for election for up to three consecutive 3 year terms; provided, however, that at the time of the Director's election, the Board may fix any such term for less than 3 years, to allow for the staggering of terms or to permit a Director to serve the maximum number of consecutive years allowed hereunder. No Director may serve more than a maximum of 10 consecutive years on the Board; provided, however, that he or she will again be eligible for election under the provisions hereof 2 years ("Hiatus Period") after the conclusion of such a 10 year period.

7.6 Director and Board Review.

(a) Executive Committee Review. At the end of each Director's term, and before he or she may be nominated for an additional term, his or her Board service will be reviewed by the Executive Committee.

(b) Performance Review. The Board will review its own performance as a Board, and will take such action to improve or correct the Board's performance as the results of the review indicate. The Board may establish its own policies and procedures for the periodic review of individual Director's performances, in addition to the Executive Committee review referred to in subsection (a) above.

7.7 Vacancies. Any vacancy occurring on the Board shall be filled by the nomination and election process set forth in Section 7.4 above.

7.8 Removal. Any Director or Directors, other than the President/Chief Executive Officer serving as an ex officio Director, may be removed at any time with or without cause by a majority of the Board of Directors. The Board may declare vacant the office of a Director:

(i) who has been declared of unsound mind by a final order of court, or been convicted of a felony, or been found by a final order or judgment of any court to have breached any duty under Sections 5230 to 5239 of the California Nonprofit Corporation Law; (ii) who has failed, without excuse, to attend three consecutive Board meetings; (iii) who fails to exercise the highest standards of ethical and moral conduct in carrying out his or her duties for this Corporation; or (iv) who fails to act, in all respects, in the best interest of this Corporation and fully support its mission and vision.

7.9 Annual Meeting. The annual meeting of the Board shall be held in September of each year, at such time and place as the Chairperson may determine.

7.10 Regular Meeting. Regular meetings of the Board, if scheduled by resolution of the Board, shall not require prior notice.

7.11 Special Meetings. Special meetings of the Board for any purpose whatsoever may be called at any time by the Chairperson, by any 2 Directors, or by the President/Chief Executive Officer. Notice of any special meeting of the Board shall be sufficient if placed in first class mail 4 days prior to the meeting or delivered personally or by telephone, facsimile, or electronic mail to each Director no less than 48 hours prior to the meeting.

7.12 Quorum. A majority of the authorized number of Directors shall constitute a quorum for the transaction of business at any meeting of the Board.

7.13 Voting. Unless the vote of a greater number is required by these bylaws, the Articles of Incorporation of this Corporation, or the California Nonprofit Corporation Law, the following will constitute the act of the Board: if a quorum is present, the affirmative vote of

at least a majority of the Directors present; or if a quorum was initially present but enough Directors then withdrew to leave less than a quorum, the affirmative vote of at least a majority of the original quorum.

7.14 Adjourned Meetings. A majority of Directors present at a meeting, whether or not constituting a quorum, may adjourn any meeting to another time and place. Notice of the time and place of holding an adjourned meeting need not be given, unless the meeting is adjourned for more than 24 hours, in which case notice of the time and place shall be given before the time of the adjourned meeting to the Directors who were not present at the time of the adjournment.

7.15 Action Without Meeting by Written Consent. Any action required or permitted to be taken by the Board may be taken without a meeting if all Directors shall consent in writing to such action. The written consent shall be filed with the minutes of the proceedings of the Board. Action by written consent shall have the same force and effect as the unanimous vote of the Board at a duly called and constituted meeting.

7.16 Telephonic and Electronic Communication Meetings. Directors may participate in a meeting through use of conference telephone, electronic video screen communication or electronic transmission by and to the Corporation, Participation in a meeting through use of conference telephone or electronic video screen communication pursuant to this subdivision constitutes presence in person at that meeting as long as all Directors participating in the meeting are able to hear one another. Participation in a meeting through use of electronic transmission by and to the Corporation, other than conference telephone and electronic video screen communication, pursuant to this subdivision

constitutes presence in person at that meeting if both of the following apply:

(a) Each Director participating in the meeting can communicate with all of the other members concurrently.

(b) Each Director is provided the means of participating in all matters before the board, including, without limitation, the capacity to propose, or to interpose an objection to, a specific action to be taken by the Corporation,

Meetings so held shall constitute the valid action of the Board provided that the other requirements of this Article VII are met with respect to the meeting.

ARTICLE VIII
OFFICERS

8.1 Corporate Officers. The Corporate Officers shall be: a Chairperson of the Board ("Chairperson"); a Vice Chairperson of the Board ("Vice Chairperson"); a President/Chief Executive Officer; a Chief Financial Officer; a Chief Administrative Officer; a General Counsel; a Chief Operating Officer; a Secretary; and such other Assistant Secretaries and officers as may be designated by the Board from time to time, based upon the advice and counsel of the President/Chief Executive Officer.

8.2 Appointment of Corporate Officers:

(a) Chairperson; Vice Chairperson; Secretary. The Executive Committee shall nominate individuals to serve as the Chairperson, Vice Chairperson, and Secretary, pursuant to a process developed and conducted by the Executive Committee. The Board shall subsequently appoint the Chairperson, the Vice Chairperson, and the Secretary.

(b) President/Chief Executive Officer. A search committee, appointed by the Executive Committee, and which may, but need not be, the Executive Committee, shall nominate the President/Chief Executive Officer for appointment by the Board. If the Board does not approve a nominee, the search committee shall nominate a different individual to replace the nominee who was not approved until the nominee is approved by the Board.

(c) Chief Financial Officer; Chief Administrative Officer; General Counsel; Chief Operating Officer; Assistant Secretaries. The President/Chief Executive Officer is authorized to appoint the Chief Financial Officer, the Chief Administrative Officer, the General Counsel, the Chief Operating Officer, and all Assistant Secretaries, and shall provide notice to the Board of such appointments as soon as reasonably possible after such appointments are made.

8.3 Terms of Office. The term of the office of the Chairperson, the Vice Chairperson, and the Secretary shall be one year and commence with their appointment at the Board's annual meeting. An individual may serve as the Chairperson, Vice Chairperson and Secretary for up to 3 consecutive one year terms. Individuals appointed as President/Chief Executive Officer, Chief Financial Officer, Chief Administrative Officer, General Counsel, Chief Operating Officer, and Assistant Secretary shall serve for an indefinite term, subject to the provisions of Sections 8.4 and 8.5 below.

8.4 Removal. The Board may remove any of the officers of this Corporation, and may delegate to the President/Chief Executive Officer the authority to remove the General Counsel, whenever in the Board's judgment the best interests of this Corporation will be served by such delegation; provided, however, that

removal of the President/Chief Executive Officer, General Counsel, or Secretary shall be without prejudice to his or her contract rights, if any. Upon removal from office by the President/Chief Executive Officer pursuant to a delegation of authority under this Section, the General Counsel shall, in the exercise of his or her ethical obligations, continue to serve as the legal advisor to the Board until such service is terminated by the Board. The President/Chief Executive Officer, in his or her discretion, shall have the authority to remove the Chief Operating Officer, any Assistant Secretary, the Chief Financial Officer, the Chief Administrative Officer, or any other officer appointed under Section 8.8 of these bylaws; provided, however, that removal of the Chief Operating Officer, any Assistant Secretary, the Chief Financial Officer, the Chief Administrative Officer, or any other officer appointed under Section 8.8 of these bylaws shall be without prejudice to his or her contract rights, if any.

8.5 Vacancies in Corporate Offices, A vacancy in the corporate office of Chairperson, Vice Chairperson, or Secretary may be filled by the Board for the unexpired portion of the term of such corporate office. A vacancy in the corporate office of President/Chief Executive Officer may be filled by the Board, based upon the recommendations of a search committee in accordance with Section 8.2(h) above. A vacancy in the corporate office of Chief Operating Officer, Chief Financial Officer, Chief Administrative Officer, General Counsel, or Assistant Secretary may be filled by the President/Chief Executive Officer.

8.6 Powers and Duties.

(a) Chairperson. The Chairperson shall direct the business of the Board and shall preside at all meetings of the Board. The Chairperson shall have

such other powers and duties as may be prescribed by the Board or these bylaws.

(b) Vice Chairperson. In the absence or disability of the Chairperson, the Vice Chairperson shall perform all the duties of the Chairperson, and when so acting shall have all of the powers of, and be subject to all the restrictions upon, the Chairperson. The Vice Chairperson shall have such other powers and perform such other duties as may be prescribed from time to time by the Board or the Chairperson.

(c) Secretary; Assistant Secretary. The Secretary shall: (i) keep the minutes of all meetings of the Board, (ii) see that all notices are duly given in accordance with the provisions of these bylaws or as required by law, (iii) have charge of all the records of the Board and of the seal of this Corporation, (iv) see that the execution of the foregoing on behalf of this Corporation under its seal is duly authorized, and (v) in general, perform all of the duties incident to the office of Secretary, subject to the control of the Board. The Assistant Secretaries shall perform the above duties at the direction of, or in the absence of, the Secretary.

(d) President/Chief Executive Officer. The President/Chief Executive Officer shall be the chief executive officer of this Corporation. Subject to these bylaws, corporate policy, and control by the Board, the President/Chief Executive Officer shall exercise executive supervision and control over the general business and affairs of this Corporation and shall perform such other duties as may be prescribed from time to time by the Board, but at no time shall this supervision and control directly facilitate procedures that are contrary to Catholic teaching.

(e) Chief Operating Officer. The Chief Operating Officer shall exercise executive supervision and control over the affairs of the this Corporation, as prescribed from time to time by the President/Chief Executive Officer.

(f) Chief Financial Officer. The Chief Financial Officer shall keep and maintain, or cause to be kept and maintained, adequate and comprehensive books and records of the assets of this Corporation and of its transactions. Such books and records shall be open to inspection by any Director at all reasonable times. In addition, the Chief Financial Officer shall have charge of the funds and liquid assets of this Corporation, including those funds administered by the self insurance programs and trusts, and shall deposit and/or invest such funds and liquid assets in accordance with the overall mission, policies and plans of this Corporation and in accordance with the directives of the President/Chief Executive Officer and the Board. The Chief Financial Officer shall be responsible for all necessary and appropriate reporting and accounting, including the management of independent auditors.

(g) Chief Administrative Officer. The Chief Administrative Officer shall exercise administrative coordination of the affairs of this Corporation, as prescribed from time to time by the President/Chief Executive Officer.

(h) General Counsel. The General Counsel shall serve as legal advisor to the Board, the Sponsorship Council and the management of this Corporation (through the President/Chief Executive Officer), and as principal legal officer of this Corporation. He or she shall have responsibility for directing the affairs of this Corporation's legal department, which

provides legal services to this Corporation, and its Subsidiaries. The General Counsel shall serve as legal advisor to this Corporation's insurance and self-insurance programs and shall have primary responsibility for the selection, evaluation and retention decisions affecting the use of outside legal counsel.

8.7 Presidents of the Subsidiaries. Except as provided in the bylaws of a Subsidiary, each president of a Subsidiary shall be elected by the board of directors of such Subsidiary, pursuant to its bylaws, and shall be approved by the Chief Operating Officer and the Board.

8.8 Other Officers. The President/Chief Executive Officer shall appoint such other officers with such titles as the President/Chief Executive Officer deems necessary from time to time. Such officers shall serve at the discretion of the President/Chief Executive Officer and shall have such powers and perform such duties as may be delegated to them by the President/Chief Executive Officer.

8.9 Multiple Offices. Any number of offices may be held by the same person, except that the Secretary and the Chief Financial Officer may not serve concurrently as the President/Chief Executive Officer or as the Chairperson.

8.10 Duty to Support Mission. Each Corporate Officer and Vice President of this Corporation shall adhere to the highest standards of ethical and moral conduct in carrying out his or her duties for this Corporation, and shall act, in all respects, in the best interest of this Corporation. Each Corporate Officer and Vice President shall support the healing ministry as established in accordance with the provisions of these bylaws. Failure of any Corporate Officer or Vice

President to adhere to such standards may be grounds for his or her removal or termination in accordance with these bylaws.

ARTICLE IX
MEDICAL STAFF

9.1 Organization and Governance. The Board shall ensure that the physicians, dentists, podiatrists and such other practitioners as may be granted medical staff membership and clinical privileges (each a "Practitioner") at hospitals licensed to this Corporation shall be and continue to be organized into one or more medical staffs (each, a "Medical Staff"), in accordance with law. The Medical Staffs shall be responsible to a Hospital Community Board (established pursuant to Article XI), which shall exercise its oversight responsibilities in coordination with the Quality Committee (as defined in Section 10.3(a)). Each such Medical Staff shall operate in accordance with Medical Staff bylaws established in conformance with the provisions of the Hospital Community Board Bylaws and approved by the Hospital Community Board.

9.2 Conflicts. Any conflict between Medical Staff bylaws and these bylaws or applicable Hospital Community Board Bylaws shall be resolved in favor of these bylaws or the applicable Hospital Community Board Bylaws, and where necessary or applicable the Medical Staff bylaws shall be revised to conform if approved by the applicable Medical Staff governance body; provided, however, that if the Medical Staff governance body does not approve, the conflict shall be solved through a conflict management process jointly approved by the applicable Medical Staff governance body and this board or, if only the Hospital Community Board Bylaws are in conflict with the Medical Staff bylaws, the Hospital Community Board.

ARTICLE X
COMMITTEES APPOINTED BY THE BOARD

10.1 Types of Committees.

(a) Board Delegated Powers Committees. The Board, by resolution adopted by a majority of the authorized number of Directors, at a meeting at which a quorum is present, may designate and appoint one or more committees, each consisting of 2 or more Directors, to serve at the pleasure of the Board. The Board may delegate the full power and authority of the Board to any such committee (a "Board Delegated Powers Committee") provided that any such committee to which the power and authority of the Board is delegated shall be composed solely of Directors and shall not have any of the following powers, which shall not he exercised by or delegated to any committee:

(1) the approval of any act for which the California Nonprofit Corporation Law requires the approval of a member of the Corporation;

(2) the filling of vacancies on the Board or any committee having the authority of the Board;

(3) the fixing of compensation of Directors for service on the Board or any committee;

(4) the amendment or repeal of these bylaws or the adoption of new bylaws;

(5) the amendment or repeal of any resolution of the Board which by its express terms is not so amendable or repealable;

(6) the expenditure of corporate funds to support a nominee for Director after there are more people nominated for Director than can he elected;

(7) the approval of any self-dealing transaction, except as permitted under the California Nonprofit Corporation Law; or

(8) the exercise of any other power, the exercise of which is prohibited under the California Nonprofit Corporation Law.

(b) Board General Committees ("General Committees"). The Board may create other committees that shall not exercise the authority of the Board, but shall make recommendations to the Board All of the members of such Committees may, but need not be, Directors.

(c) Board Alteration of Committees. Except with respect to Section 10.3(f), the Board may alter, at its discretion, the purpose or composition of any committees created under this Article X, to include creating new standing or ad hoc committees, reallocating functions between committees, or removing functions from committees. Nothing in these bylaws shall be construed to limit the Board's discretion in this regard.

10.2 Standing Board Delegated Powers Committees.

(a) Executive Committee. The Executive Committee shall be established as a Board Delegated Powers Committee pursuant to Section 10.1(a) and shall consist of the Chairperson (who shall chair the Executive Committee), Vice Chairperson, Secretary of the Board, the President/Chief Executive Officer, and no less than one and no more than two committee chairs. In addition, the Executive Committee shall at all time include at least one Director who is a woman religious of a Sponsor. The Chairperson of the Board shall serve as the

Chairperson of the Executive Committee. Except as limited by Section 10.1(a), the Executive Committee shall have and exercise the authority of the Board only in the intervals between meetings of the Board, subject to such limitations imposed by resolutions of the Board, the Articles of Incorporation of this Corporation, these bylaws, or applicable law. The Executive Committee shall report any actions it has taken pursuant to such authority to the full Board at the Board's next meeting and minutes of the Executive Committee shall be distributed to all Directors. The Executive Committee shall conduct the annual performance review of the President/Chief Executive Officer and shall serve as a nominating committee, as set forth in Section 7.4. In addition, the Executive Committee shall be responsible for the following functions: planning for the orientation and continuing education of Directors in collaboration with the office of the President/Chief Executive Officer; overseeing the reappointment process for Directors; assuring breadth and diversity of expertise and experience in the composition of the Board; in collaboration with the Chairperson of the Board, developing a survey instrument and process for a periodic evaluation of Board effectiveness, the results of which shall be reported to the Chairperson of the Board; and conducting periodic review of individual Director performance.

(b) Human Resources and Compensation Committee. The Human Resources and Compensation Committee shall be established as a Board Delegated Powers Committee pursuant to Section 10.1(a) and shall consist of those Directors appointed to the Committee from time to time by the Board. The Human Resources and Compensation Committee shall exercise the full authority of the

Board with respect to reviewing and approving the compensation and benefits of the President/Chief Executive Officer and his/her direct reports, as defined in corporate policies adopted by the Board from time to time, as well as reviewing and approving aggregate compensation and benefits philosophy and plans for employees of this Corporation and its Subsidiaries. In addition, the Human Resources and Compensation Committee shall review and approve the total work force strategy of this Corporation and its Subsidiaries, including recruitment, retention, labor relations, diversity and workplace environment.

10.3 Standing General Committees.

(a) Quality Committee. The Quality Committee shall be established as a General Committee pursuant to Section 10.1(b), and shall consist of at least 2 Directors, one of whom shall be the chairperson of the Quality Committee, and such other persons as are appointed from time to time by the Board. The Quality Committee shall be responsible for:

(1) the evaluation and resolution of operational and patient care quality issues which impact hospital facilities operated by this Corporation;

(2) approving policies and procedures with respect to quality improvement, clinical process improvement, patient quality of care initiatives, and other quality issues related to hospital operations;

(3) establishing and maintaining systems for monitoring compliance with hospital policies and procedures;

(4) monitoring the activities of Institutional Review Boards established and maintained by

hospitals operated by this Corporation, including applying for and holding a Federal-wide Assurance issued by the Office of Human Research Protections, a division of the Department of Health and Human Services; and

(5) making recommendations to the Board regarding the quality of healthcare at the hospitals and other healthcare facilities licensed to or operated by this Corporation and its Subsidiaries.

In order to carry out its responsibilities, it may be necessary for the Quality Committee to have access, from time to time, to certain information related to medical staff quality evaluation and improvement activities carried out within the hospitals and other healthcare facilities licensed to or operated by this Corporation or its Subsidiaries. The Quality Committee shall receive reports appropriate and necessary to assist in identifying needs and setting priorities. The reports received by the Quality Committee shall be treated as information which is protected from "discovery" (i.e., protected from the formal exchange of evidentiary information between parties to an adversary proceeding) in accordance with applicable laws. Any information reviewed by the Quality Committee shall be strictly protected from careless dissemination, be and remain confidential and shall not be utilized for any other purpose but to enhance and monitor the quality of care at the hospitals and other healthcare facilities licensed to or operated by this Corporation. The Quality Committee shall constitute a peer review body under Section 805 of the California Business and Professions Code and similar statutes in other states in which this Corporation operates. The Quality Committee shall have policies and procedures for gathering and disseminating information which assures

protection from discovery of documentation/ information generated by itself and other quality and peer review bodies operating within this Corporation.

(b) Finance Committee. The Finance Committee shall be established as a General Committee pursuant to Section 10.1(b), shall consist of at least 4 committee members appointed by the Board, and shall include at least 2 Directors, one of whom shall be the chairperson of the Finance Committee. The Finance Committee shall be responsible for making recommendations to the Board regarding:

(1) Review and approve fiscal policy and standards;

(2) Approval and continuous monitoring and evaluation of a capital development plan for this Corporation and its Subsidiaries;

(3) Oversight of this Corporation's debt, and review and approval of capital and operating budgets of this Corporation and the Subsidiaries over which this Corporation has budgetary implementation or approval powers; and

(4) Review of the fiscal performance of this Corporation and the Subsidiaries over which this Corporation has budgetary implementation or approval powers for conformance with the, mission, vision, goals and objectives of this Corporation.

The Finance Committee shall take those steps which are necessary and desirable to implement approved policies and procedures within the scope of authority delegated to it by the Board.

(c) Audit and Compliance Committee. The Audit and Compliance Committee shall be established as a General Committee pursuant to Section 10.1(b)

and shall consist of at least 2 Directors, one of whom shall be the chairperson of the Audit and Compliance Committee, and such other persons as are appointed from time to time by the Board. None of the members of the Audit and Compliance Committee shall be employees of this Corporation, and the Chairperson of the Finance Committee shall be ineligible to sit on the Audit and Compliance Committee. The Audit and Compliance Committee shall:

(1) Report to, and make recommendations to, the Board regarding implementation and operation of compliance activities within this Corporation and its Subsidiaries, including this Corporation's and its Subsidiaries' corporate integrity plans and codes of conduct;

(2) Recommend to the Board the selection of independent auditors to conduct the annual audit of this Corporation's and its Subsidiaries' books and records (the "Auditors");

(3) Review and forward to the Board the annual financial management letter of the Auditors, with comments of the Audit and Compliance Committee, if any;

(4) Review the Auditors' performance of the annual audit;

(5) Review the results and scope of the annual audit;

(6) Review and provide oversight of this Corporation's compliance policies and procedures, including adoption of necessary and appropriate compliance policies and procedures, or mechanisms by which such policies and procedures shall be adopted by management; and

(7) Obtain and review reports, from time to time, from this Corporation's corporate compliance officer regarding this Corporation's compliance activities, and from this Corporation's executive responsible for internal audit regarding this Corporation's internal audit activities, and from the Auditors out of the presence of management.

The corporate compliance officer and executive responsible for internal audit shall report to the Audit and Compliance Committee, but shall in any event operate under the administrative oversight of the Chief Financial Officer and the President/Chief Executive Officer.

(d) Planning and Strategy Committee, The Planning and Strategy Committee shall be established as a General Committee pursuant to Section 10.1(6) and shall consist of at least 2 Directors in addition to those persons appointed from time to time by the Board. The Planning and Strategy Committee shall be responsible for making recommendations to the Board regarding:

(1) Formulation of planning policy and standards for this Corporation and its Subsidiaries;

(2) Development and continuous monitoring and evaluation of a strategic plan for this Corporation and its Subsidiaries; and

(3) Review of annual and long-range plans of this Corporation and its Subsidiaries for conformance with the vision, mission, goals and objectives of this Corporation.

(e) Investment Committee. The Investment Committee shall be established as a General Committee pursuant to Section 10.1(b) and shall consist of at

least two Directors and such other persons as are appointed from time to time by the Board. The chairperson of the Investment Committee shall be a Director who is also a member of the Finance Committee. Consistent with applicable legal and fiduciary standards and policies established by the Board from time to time, the Investment Committee shall be responsible for overseeing and monitoring the investments of this Corporation, however held, including pension funds and investments this Corporation may manage under arrangements with its subsidiaries and affiliates, and shall be responsible for making reports and recommendations to the Board regarding:

(1) Periodic performance of the portfolio, not less than biannually;

(2) Performance of investment advisors, find managers and related consultants;

(3) Asset allocation among types and classes of investment, including re-balancing of the portfolio;

(4) The relative levels and relationship of risk and potential return presented by the portfolio, and options for the adjustment thereof;

(5) Comparison of portfolio performance to market and index norms for past periods, and where available and applicable, comparison or evaluation in the context of other benchmarks or information sources related to portfolio performance; and

(6) Corporate accountability and community economic initiatives program.

(f) Mission Integrity Committee.

(1) Purpose. The general purpose of the Mission Integrity Committee shall be to provide advice and guidance to the Corporation's senior management and Board concerning the operation of the Corporation, through its Catholic Sponsored Health Facilities, its Health Facilities which are not Catholic Sponsored and its Subsidiaries and affiliates, with respect to the healing ministry.

(2) Membership. There shall be a Mission Integrity Committee comprised of 7 persons, at least 2 of whom shall be Directors, with 4 to be appointed by the Board and 3 to be appointed by the Sponsorship Council.

(3) Policies and Procedure. Except as otherwise provided in these bylaws or in the Matrix, the organizational structure, meeting schedule and all matters related to the policies and procedures of the Mission Integrity Committee shall be determined by the Mission Integrity Committee.

(4) Powers and Responsibilities.

(i) The Mission Integrity Committee shall advise management and the Board, but shall not exercise any authority of the Board.

(ii) The Mission Integrity Committee shall be responsible for

a. The evaluation and resolution of management, operational, and patient care issues that impact conformance with the mission and values of the healing ministry in the operations of this Corporation and the Health Facilities operated by this Corporation;

b. Approving policies and procedures with respect to implementation and conformance

to the mission and values of the healing ministry;

c. Establishing and maintaining systems for monitoring compliance with the mission and values of the healing ministry;

d. Operational integrity of the Statement of Common Values;

e. Operational integrity of mission integration standards;

f. Pastoral care and education programs; and

g. Ministry leadership formation programs.

(iii) The Mission Integrity Committee shall have the power and responsibility to review and monitor the Systems':

a. Labor practices; and

b. Pension administration.

(iv) The Mission Integrity Committee, in consultation with the Sponsorship Council, shall review the Corporation's Annual Mission Integration Report, prior to its submission to the Board, and may make recommendations for consideration by the Board based on such review.

(v) The Mission Integrity Committee may propose revisions to the Statement of Common Values or its mode of implementation. Any such proposal by the Mission Integrity Committee shall first be provided to and reviewed with the Sponsorship Council, and the Sponsorship Council shall have the sole power to veto any

such changes before they are presented to the Board for final approval. Following the next meeting of the Sponsorship Council, provided the Sponsorship Council has not voted to veto or postpone such proposal, the Mission Integrity Committee may request approval of the Board at the Board's next regularly scheduled meeting. The Board must, in its discretion, approve all such changes before they become final. If approved by the Board, such proposal shall be implemented.

(vi) The Mission Integrity Committee shall implement and oversee Board Formation Programs for directors, and may include executives of the Corporation and members of Subsidiary boards, Hospital Community Boards and fund-raising foundation boards. Such Board Formation Programs shall be designed to educate about the healing ministry and the mission, culture and charism of the Sponsors.

(5) Advice to Management and Board. The Mission Integrity Committee shall meet at least annually with senior management and Board representatives, as selected by the President/Chief Executive Officer in consultation with the chair of the Mission Integrity Committee, with the purpose of providing advice and guidance regarding the subject matter referred to in Section 10.3(f)(4).

10.4 Subcommittees.

(a) Creation of Subcommittees. Each committee may establish one or more subcommittees composed of those committee members and other individuals deemed appropriate by the committee, appointed by

the committee, and having such rights and duties as shall be delegated to the subcommittee by the committee; provided, however, that no subcommittee shall exercise the power and authority of the Board.

(b) Community Economic Initiatives Subcommittee. The Investment Committee may establish a subcommittee with responsibility for making reports and recommendations to the Investment Committee regarding the overall administration of community economic initiatives, to include: reviewing the performance of community economic initiatives, reviewing applications submitted in connection with community economic initiatives, and reviewing individual projects of the community economic initiatives program. The Community Economic Initiatives Subcommittee, if established, shall consist of those members of the Investment Committee, and such other individuals reflective of the diversity of the communities in which this Corporation and its subsidiaries conduct activities, who are appointed from time to time by the chairperson of the Investment Committee.

10.5 Appointment. The chairperson, vice chairperson, and members of any Board Delegated Powers Committee or General Committee shall be nominated by the Chairperson and appointed by the Board by a majority vote of Directors then in office.

10.6 Women Religious Serving as Committee Members. Women religious may be appointed to serve as members of committees, in accordance with the provisions of this Article X, from time-to-time.

10.7 Committee Chairs. Excepting the Mission Integrity Committee, the Chairperson of any Board

Delegated Powers Committee or General Committee shall be a Director.

10.8 Term of Office. The chairperson and each member of any Board Delegated Powers Committee or General Committee shall serve until the next annual meeting of the Board, or until such committee is sooner terminated, or until he or she is removed by the Board, resigns, or otherwise ceases to qualify as a chairperson or member of the committee. Individuals who are not also a Director may not continue to serve on General Committees once they have served on one or more committees for five consecutive one-year terms. Individuals whose term as a Director has ended may continue to serve on General Committees for no more than 2 additional years. The Board may permit individuals to serve on a General Committee for longer than the foregoing term limits if, in its discretion, it finds that the implementation of the term limit will create a hardship for the committee. Individuals whose term(s) have ended due to the implementation of these term limits may again be appointed to serve as members of General Committees after a hiatus of 2 years. These term limits shall also apply in the case of subcommittees.

10.9 Vacancies. Vacancies on any Board Committee may be filled for the unexpired portion of the term by a majority vote of the Directors then in office.

10.10 Removal of Members of Committees. The Board may remove at any time, with or without cause, the chairperson or any member of any committee, except the ex-officio members of the Executive Committee specified by position in Section 10.2(a).

10.11 Quorum and Actions. A majority of members of a committee shall constitute a quorum and any

transaction of a committee shall require a majority vote of the committee members present at a meeting at which a quorum is present. Except as otherwise provided in these bylaws, each member of a committee, including the person presiding at the meeting, shall be entitled to one vote.

10.12 Meetings and Action of Committees. Meetings and actions of any committee created under this Article X shall be governed by, held, and taken under the provisions of these bylaws concerning meetings and other Board actions, except that the time for general meetings of committees, or for the calling of special meetings of committees, may be set either by the Board or, if no action is taken by the Board, by the committee. Minutes of each committee meeting shall be kept and filed with this Corporation's corporate records. The Board may adopt rules for the governance of any committee as long as the rules are consistent with these bylaws. If the Board has not adopted rules, the committee may do so.

ARTICLE XI
HOSPITAL COMMUNITY BOARDS

11.1 Establishment. This Corporation shall establish one or more Hospital Community Boards related to hospitals owned and operated by this Corporation (the "Hospital Community Boards"). All Hospital Community Boards shall be operated substantially in the manner described in, and shall have the responsibilities generally as described in, the forms of Hospital Community Board Bylaws attached to these bylaws as Exhibits B1 and B2 (the "Hospital Community Board Bylaws"). Any change in the form of the Hospital Community Board Bylaws to be applicable to a specific Hospital Community Board shall be approved by this

Board. The Board shall make all appointments to the Hospital Community Boards.

11.2 Women Religious on Hospital Community Boards. Each Hospital Community Board related to Catholic Sponsored Health Facilities shall have at least one woman religious on the Hospital Community Board, as and to the extent provided in such Hospital Community Board Bylaws.

11.3 Authority.

(a) Policies and Procedures. The Hospital Community Board shall have final authority to approve all hospital policies and procedures for hospital services at the hospitals that the Hospital Community Board supports (the "Local Hospital"), where such approval is required of a governing body by law, regulation or accrediting body. This Board may elect to exercise such approval rights by notice to the Hospital Community Board and, in such case, the referenced policies and procedures shall be deemed approved by the Hospital Community Board.

(b) Quality Assessment, Performance Improvement, Patient Safety and Utilization Management Activities, The Hospital Community Board shall be responsible for assuring that health care services provided at the Local Hospital are of high quality, safe, effective, efficient and consistent with community standards. The Hospital Community Board shall be responsible for ongoing quality assessment, performance improvement, patient safety and utilization management activities of the Local Hospital, for assuring that quality and patient safety issues are addressed and resolved appropriately, and for assuring that quality assessment, performance improvement, patient safety and utilization

management activities are consistent with the standards, policies and procedures established by the Board and the Quality Committee. The Hospital Community Board shall assure that the Medical Staff participates in the measurement, assessment and improvement of clinical and non-clinical processes affecting patient care at the Local Hospital and takes a leadership role where the clinical processes are the primary responsibility of physicians.

(c) Medical Staff Matters. The Hospital Community Board shall have final authority regarding medical staff matters delegated to it by this Board pursuant to Article IX of these bylaws and as set forth in the Hospital Community Board Bylaws.

ARTICLE XII
SPONSORSHIP COUNCIL

12.1 Purpose. The general purpose of the Sponsorship Council shall be to (a) oversee and, as applicable, act upon issues of Catholic identity with respect to the Catholic Sponsored Health Facilities, including oversight of mission integration, ministry leadership education and formation, and chapels and religious symbols and artifacts in Catholic Sponsored Health Facilities; and (b) inform the healing ministry of the Corporation, including both Catholic Sponsored Health Facilities and Health Facilities which are not Catholic Sponsored, on matters of mission integration, ministry leadership formation and dedicated sacred space by representation on the Mission Integrity Committee, as set forth below.

12.2 Membership. Subject to Section 12.3 below, there shall be a Sponsorship Council comprised of six members appointed as follows:

(a) One member of the Sisters of Mercy of the Americas West Midwest Community, as appointed by the President of the West Midwest Community or a governance body of the West Midwest Community delegated such authority by the Community Leadership Team.

(b) The Prioress of the Adrian Dominican Sisters or her designee, who shall be a member of the Adrian Dominican Sisters.

(c) The Prioress General of the Dominican Sisters of San Rafael or her designee who shall be a member of the Dominican Sisters of San Rafael.

(d) The General Superior of the Incarnate Word Sisters or her designee who shall be a member of the Incarnate Word Sisters.

(e) The Prioress of the Taos Dominicans or her designee who shall be a member of the Taos Dominicans.

(f) The Provincial Minister of the Redwood City Franciscans or her designee who shall be a member of the Redwood City Franciscans.

12.3 Change of Composition.

(a) Except as provided in subsections (b) and (c) below, the rights of the Sponsors to compose the Sponsorship Council, as provided in Section 12.2, shall be within the sole discretion of the Sponsors.

(b) Notwithstanding subsection (a) above, at any time a Sponsor may change its appointee or designee sitting on the Sponsorship Council by giving written notice to all the members of the Sponsorship Council and the Chief Administrative Officer.

(c) Notwithstanding subsection (a) above, at any time a Sponsor, acting as a Sponsor, may withdraw from participation in the Sponsorship Council by giving written notice to all the members of the Sponsorship Council and the Chief Administrative Officer. Thereafter, such Sponsor shall have no rights to participate in or appoint to the Sponsorship Council. After the withdrawal of a Sponsor as a participant in the Sponsorship Council, and not withstanding any other provisions of these bylaws, the bylaws shall be amended by the Board to exclude such Sponsor from inclusion in Section 12.2 above and such revision shall not require the approval of the Sponsorship Council or the other Sponsors. Such withdrawal from Sponsorship Council participation shall be without prejudice to any other rights such Sponsor may have in the Articles of Incorporation, these bylaws, or the Matrix.

12.4 Voting. Except as otherwise provided in these bylaws or in the Matrix, the Sponsorship Council shall act based on a majority vote of all of its members, and without a minimum quorum requirement.

12.5 Policies and Procedure. Except as otherwise provided in these bylaws or in the Matrix, the organizational structure, meeting schedule and all matters related to the policies and procedures of the Sponsorship Council shall be determined by the Sponsorship Council.

12.6 Powers and Responsibilities. The Sponsorship Council shall have the powers and responsibilities as set forth herein and in the Matrix.

12.7 Appointment of Mission Integrity Committee. The Sponsorship Council shall appoint 3 of the 7 members of the Mission Integrity Committee.

ARTICLE XIII
DISSOLUTION OF THIS CORPORATION

13.1 Vote to Dissolve. Consistent with the Articles of Incorporation and subject to any approval rights contained in the Matrix, this Corporation may elect to commence a process to voluntarily wind up and dissolve upon approval of the Board.

13.2 Plan of Dissolution. After an affirmative vote to dissolve this Corporation, a plan of dissolution shall be prepared for approval pursuant to this Section 13.2. The plan of dissolution shall include an outline of dissolution steps, a proposed timetable and a plan of distribution of assets. The plan of dissolution shall be in accordance with applicable law and shall include adequate provision for the payments of debts and liabilities and compliance with valid conditions applicable to this Corporation requiring return, transfer or conveyance of assets. This Corporation shall wind up and dissolve upon approval of the plan of dissolution consistent with these bylaws, including any and all approval rights provided for in the Matrix.

(a) All of the identifiable assets of each Catholic Sponsored Health Facilities (including real property, equipment, supplies, licenses, working capital, cash, investments, apportioned debt, apportioned pension and benefit plan assets and liabilities, and apportioned insurance trust assets and liabilities) shall be returned to the control of the facility's Sponsor or such Sponsor's designee, provided that the Sponsor or its designee is then exempt from taxation under Section 501(c)(3) of the Code and, if the Sponsor or its designee are not exempt under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or the corresponding provisions of any future United States revenue or tax laws (the

"Code") and, if the Sponsor or its designee is not exempt under Section 501(c)(3) of the Code, to one or more organizations that are organized and operated exclusively for charitable or religious purposes meeting the requirements for exemption provided under Section 214 of the California Revenue and Taxation Code and that are exempt from taxation under Section 501(c)(3) of the Code. In lieu of accepting assets or designating an entity for disposition, on dissolution of the Corporation a Sponsor, by notice to the Corporation in accord with Section 6.2 hereof, may decline participation in the disposition process as outlined above, and thereupon, such Sponsor's related assets shall be disposed of in accordance with Section 13.2 (b) below.

(b) All of the remaining assets shall be transferred to one or more organizations that are organized and operated exclusively for charitable or religious purposes meeting the requirements for exemption provided under Section 214 of the California Revenue and Taxation Code and that are exempt from taxation under Section 501(c)(3) of the Code.

ARTICLE XIV
RECORDS AND REPORTS

14.1 Maintenance of Articles and Bylaws. This Corporation shall keep at its principal executive office a copy of its articles of incorporation and these bylaws, as amended to date.

14.2 Maintenance of Other Corporate Records. Minutes of proceedings of the Board or committees shall be kept in written or typed form, and the accounting books and records shall be kept either in written or typed form or in any other form capable of being converted into written, typed or printed form.

14.3 Annual Report. This Corporation shall provide to all of its Directors, within 120 days after the close of its fiscal year, a report which shall include, but not be limited to, the following information in reasonable detail:

(a) The manner in which this Corporation's healing ministry is being implemented by the Corporation.

(b) The assets and liabilities, including the trust funds, of this Corporation as of the end of the fiscal year.

(c) The principal changes in assets and liabilities, including trust funds, during the fiscal year.

(d) The revenue or receipts of this Corporation, both unrestricted and restricted to particular purposes, for the fiscal year.

(e) The expenses or disbursements of this Corporation, for both general and restricted purposes, during the fiscal year.

(f) Any information required by Section 6322 of the California Nonprofit Corporation Law relating to interested persons and to indemnification.

The report shall be accompanied by an independent accountant's report or, if no such report, by the certificate of an authorized corporate officer stating that it was prepared without audit from the books and records of this Corporation.

14.4 Auditor's Report. An audited financial statement of this Corporation shall be prepared annually by the Auditors.

14.5 Report to Sponsors/Sponsorship Council. This Corporation shall provide to each of the Sponsors of

the Catholic Sponsored Health Facilities, within 120 days after the close of its fiscal year, a report which shall include the following information:

(a) An unaudited annual financial report for each Sponsor's Catholic Sponsored Health Facilities.

(b) A report on the insurance coverage maintained for each Sponsor's Catholic Sponsored Health Facilities.

(c) A copy of the Corporation's audited annual report, which shall also be provided to the Sponsorship Council.

(d) An inventory of Stable Patrimony for each of the Sponsor's Catholic Sponsored Health Facilities.

14.6 Confidentiality. Except as otherwise publicly disclosed, or in order to appropriately conduct this Corporation's business, the records and reports of this Corporation shall be held in confidence by those persons with access to them.

ARTICLE XV
INDEMNIFICATION

15.1 Indemnification of Officers, Directors, Sponsorship Council Committee Members and Members of Hospital Community Boards. This Corporation shall indemnify any person who was or is a party, or is threatened to be made a party, to any proceeding by reason of the fact that such person is or was a Director, Officer, Sponsorship Council Member, Committee Member of this Corporation and members of Hospital Community Boards, to the full extent allowed under and subject to the requirements of Section 5238 of the California Nonprofit Corporation Law relating to the power of a Corporation to indemnify any such person. The amount of such indemnity shall be as much as the

Board or the court, if application is made to it, determines and finds to be reasonable.

15.2 Indemnification of Employees and Other Agents. Nothing herein contained shall limit the right of this Corporation, in the specific case and as provided in Section 5238 of the California Nonprofit Corporation Law, to indemnify employees and other agents who are made parties, or who are threatened to be made parties, to any proceeding by reason of the fact that such person is or was an employee or other agent of this Corporation.

15.3 Indemnification – Service on Other Corporations. This Corporation shall have, and may exercise by the adoption of appropriate resolution, the power of indemnification for any person who is or was a Director, Officer, employee, Sponsorship Council member, Committee member, or other agent of this Corporation who is or was serving at the request of this Corporation as a member, director, officer, employee or agent of another foreign or domestic Corporation, partnership, joint venture, trust or other enterprise, to the full extent allowed under the provisions of Section 5238 of the California Nonprofit Corporation Law relating to the power of a Corporation to indemnify any such person. The amount of such indemnity shall be as much as the Board or the court, if application has been made to it, determines and finds to be reasonable.

15.4 Obligation to Indemnify. Any of the foregoing to the contrary notwithstanding, to the extent that any Director, Officer, Sponsorship Council member, Committee member, employee or other agent of this Corporation is successful on the merits in defense of any proceeding, claim, issue or matter referred to in Section 5238(b) or (c) of the California Nonprofit Corporation Law, he or she shall be indemnified by

this Corporation against expenses actually and reasonably incurred in connection therewith.

15.5 Indemnification-Excess. The indemnity provided herein shall be in excess of all valid and collectible insurance or indemnity policies.

ARTICLE XVI
MISCELLANEOUS

16.1 Review and Revision. These bylaws shall be reviewed periodically for compliance with applicable law and this Corporation's Articles of Incorporation.

16.2 Amendments to the Articles of Incorporation and Bylaws. No amendment or change to Article V (Non-Member Rights of Approval) or Article VII (Dissolution) of the Articles of Incorporation shall be effective unless and until approved by the Sponsorship Council and approved in compliance with any applicable provisions in the Matrix. No bylaw amendment or change to Article III (Healing Ministry); Article IV (Sponsors); Article VI (Governance Matrix), and any Matrix Actions requiring the approval of the Sponsorship Council or the Sponsors; Section 10.3(f) (Mission Integrity Committee); Section 11.2 (Women Religious on Hospital Community Boards); Article XII (Sponsorship Council); Section 13.2 (Dissolution); Section 14.5 (Report to Sponsors/Sponsorship Council); or this Section 16.2 (Amendments to the Articles of Incorporation and Bylaws) shall be effective unless and until approved by the Sponsorship Council and approved in compliance with any applicable provisions in the Matrix.

16.3 Notices. Any notices required to be given under these bylaws shall be in writing addressed to the address indicated, in the corporate records of this Corporation.

16.4 Statement of Common Values. The Statement of Common Values, dated effective January 17, 2012 attached hereto as Exhibit C, shall be the Statement of Common Values referred to herein, until and unless revised in accordance with these bylaws. Terms used in the Statement of Common Values (such as abortion, euthanasia, assisted suicide) are to be defined in a matter consistent with Catholic moral teachings.

CERTIFICATE OF SECRETARY
BY
DIGNITY HEALTH

I, the undersigned, certify as follows: (1) that I am presently the elected and acting Assistant Secretary of Dignity Health, (2) that the foregoing amended and restated bylaws were approved at a duly convened meeting of the Board of Directors on October 31, 2011; (3) that the foregoing amended and restated bylaws were approved by unanimous written consent without a meeting by the then-existing Corporate Members as of November 21, 2011, and (4) that such bylaws are effective as of January 17, 2012.

Executed on this 17th day of January, 2012 at San Francisco, California.

/s/ Diane M. L. Lee
Diane M. L. Lee,
Assistant Secretary

Exhibit A

DIGNITY HEALTH GOVERNANCE MATRIX

Exhibit B1

HOSPITAL COMMUNITY BOARD BYLAWS – SINGLE HOSPITAL

Exhibit B2

HOSPITAL COMMUNITY BOARD BYLAWS – MULTI-HOSPITAL

Exhibit C

STATEMENT OF COMMON VALUES

Bylaws Exhibit A
GOVERNANCE MATRIX

USE AND APPLICATION OF GOVERNANCE MATRIX

AI. SCOPE OF ATTACHMENT

A1.01 Governance Matrix. This document is the description of the governance rights and process applicable to certain actions taken within the System. These consist of certain rights to initiate action as well as certain intermediate and final approval rights with respect to actions taken or recommended by bodies within the System (the "Reserved Rights").

A1.02 Use. This Governance Matrix is intended to be used as an attachment to various corporate organizational and governance documents. It is to be used as the formal and specific description of the Reserved Rights, and may be incorporated by reference into such documents.

A1.03 System Organization. As a matter of membership and Reserved Rights, the System consists of the following elements:

(a) the Corporation, acting through its Board, and acting as a corporate member of any Subsidiary, or as a shareholder, as applicable; and

(b) the Subsidiaries, acting through their boards of directors, including acting as a corporate member of other Subsidiaries or as a shareholder, as applicable.

AII. APPLICATION

A2.01 Incorporation by Reference. This Governance Matrix is incorporated in and part of the Bylaws as provided in Article VI of the Bylaws, and, where indicated, may be incorporated into the governance documents of other organizations in the System.

A2.02 Approval Sequence. Generally, the exercise of Reserved Rights is intended to occur in the following approval sequence:

(a) action by the board of directors of a Subsidiary, if applicable;

(b) action by the board of directors of any Subsidiary's immediate parent corporation that is not the Corporation, if applicable;

(c) action by the board of directors of the Corporation;

(d) to the extent applicable, action by Sponsorship Council; or action by a Sponsor through its duly authorized governing body, if required by this Matrix;

Notwithstanding this intended sequence, actions may be taken out of sequence where otherwise

expressly provided in the Bylaws or Matrix, or where appropriate or necessary, provided that its action is contingent upon the action of all of the other approved bodies in the Matrix.

A2.03 Non-Application to Certain Entities. Where a "N/A" is used in this Matrix it means that the particular action does not apply to the listed entity.

AIII. RIGHTS

A3.01 Attachment. This Matrix is intended to state the Reserved Rights described herein with reference to the bodies which may exercise them. Any conflict between the Matrix and a written narrative description of the same right or rights in any document to which this is attached shall be resolved in favor of the narrations in such document. Any conflict in defined terms between the Matrix and another document to which it is attached shall be resolved in favor of the Matrix.

AIV. AMENDMENTS

A4.01 Amendment Process. This Governance Matrix may only be amended or revoked in accordance with the approvals required for amendment of the Bylaws as set out in the Bylaws and in this Matrix.

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GOVERNANCE MATRIX

ACTIONS	Subsidiary[1]	Corporation Board[2]	Sponsorship Council[3]	Sponsors[4]
1. **Substantive Change to Statement of Common Values**				
A. Corporation/Health Facility which is not Catholic Sponsored[5]	—	Approve[11]	Veto Power[11]	—
2. **Substantive Changes to Application of Ethical and Religious Directives for Catholic Healthcare Services**[6]				
A. Corporation[7]	N/A	N/A	N/A	N/A
B. Catholic Sponsored Health Facility[8]	—	—	Approve[12]	—
C. Health Facility which is not Catholic Sponsored[9]	N/A	N/A	N/A	N/A
D. Other Subsidiary[10]	N/A	N/A	N/A	N/A
3. Long Range and Strategic Plans				
A. Corporation	—	Approve	—	—
B. Subsidiary	Approve	Approve	—	—
4. Creation of New Corporation				
A. Corporation	—	Approve	—	—
B. Subsidiary	Approve	Approve	—	—
5. Merger or Consolidation				
A. Corporation	—	Approve	—	—[13]
B. Other Subsidiary	Approve	Approve	—	—
6. Acquisitions and Capital Expenditures, including Operating and Capital Leases (in accord with applicable Board approved policy)				
A. Corporation	—	Approve	—	—
B. Subsidiary	Approve	Approve	—	—

GOVERNANCE MATRIX

ACTIONS	Subsidiary[1]	Corporation Board[2]	Sponsorship Council[3]	Sponsors[4]
7. Sale, Lease or Disposition of All or Substantially All Assets of				
A. Corporation	–	Approve	—	—[13]
B. Other Subsidiary	Approve	Approve	—	—
8. Sale, Lease or Disposition of Property Subject to the Norms of Church Law[5]				
A. Catholic Sponsored Health Facility	-	Approve	—	Approve[14]
9. Mortgage or Encumbrance[15] of Property Subject to the Norms of Church Law				
A. Catholic Sponsored Health Facility		Approve		Approve[14]
10. Dissolution				
A. Corporation	—	Approve		—[16]
B. Other Subsidiary	Approve	Approve	—	—
11. Joint Venture (Creation, Participation or Material Change by)[17] (in accord with applicable Board approved policy)				
A. Corporation	—	Approve	—	—
B. Subsidiary	Approve	Approve	—	
12. Amendment to Articles of Incorporation				
A. Corporation	—	Approve	—	—
B Subsidiary	Approve	Approve	—	—
13. Amendment to Bylaws				
A. Corporation	—	Approve	—	—
B. Subsidiary	Approve	Approve	—	—

GOVERNANCE MATRIX

ACTIONS	Subsidiary[1]	Corporation Board[2]	Sponsorship Council[3]	Sponsors[4]
14. Amendment to Sponsorship Provisions[14]				
A. Corporation	—	Approve	Approve[12]	—
15. Borrowings, Guaranties, Loans, Encumbrances (except those subject to #9 above) (in accord with applicable Board approved policy)				
A. Corporation	—	Approve	—	—
B. Subsidiary	Approve	Approve		
16. Capital Asset Sales (except those subject to #7 and #8 above) (in accord with applicable Board approved policy)				
A. Corporation	—	Approve	—	—
B. Subsidiary	Approve	Approve	—	—
17. Consolidated Budget and Amendments				
A. Corporation (including Subsidiaries)		Approve		
18. Individual Corporation Budget and Amendments				
A. Corporation	—	Approve	—	—
B. Subsidiary	Approve	Approve	—	
19. Selection or Removal of Auditors				
A. Corporation (including Subsidiaries)	—	Approve	—	—

GOVERNANCE MATRIX

ACTIONS	Subsidiary[1]	Corporation Board[2]	Sponsorship Council[3]	Sponsors[4]
20 Closure of a Catholic Sponsored Health Facility	—	Approve	Approve[12]	
21 Change of Name of a Catholic Sponsored Health Facility	—	Approve	Approve[13]	
22. Acquisition or Construction of a new acute care Health Facility that will Constitute Property Subject to the Norms of Church Law to be sponsored by one of existing Sponsors.	—	Approve		Approve[19]
23 Resignation as Sponsor[20]			—	Approve[14]
24 Withdrawal of Catholic Sponsored Health Facility from System[21]		Approve		Approve[14]
25 Alienation[22] of a Catholic Sponsored Health Facility which will remain part of the System				Approve[14]
26 Appointment or termination of a Chief Executive Officer[23] A Subsidiary		Act		

GOVERNANCE MATRIX
Notes to Governance Matrix

1. "Subsidiary" means an organization in which the Corporation holds, directly or indirectly, greater than fifty percent (50%) of the voting rights as evidenced by membership powers, securities or other rights conferring certain approval or decision-making authority on the Corporation.

2. "Corporation Board" means the board of directors of the corporation as described in Article VII of the Bylaws.

3. "Sponsorship Council" means the body described in Article XII of the Bylaws.

4. The "Sponsors" affiliated with the System are as designated in Article IV of the Bylaws.

5. "Health Facility" means an acute care hospital or other licensed health care provider.

6. Ethical and Religious Directives for Catholic Healthcare Services, as approved and amended by the U.S. Conference of Catholic Bishops from time to time, prohibit certain procedures and practices which the Roman Catholic Church deems to be intrinsically evil. Each Catholic Sponsored Health Facility shall be operated consistent with the Ethical and Religious Directives for Catholic Healthcare Services.

7. "Corporation" means Dignity Health, the California nonprofit public benefit corporation which is the owner and operator of those Health Facilities and other organizations which make up the System, including the Subsidiary nonprofit corporations.

8. "Catholic Sponsored Health Facility" means any Health Facility which is Property Subject to the Norms of Church Law, and where such Health Facility

(or a predecessor facility) was contributed to the System by a Sponsor (or a Sponsor predecessor).

9. "Health Facility which is not Catholic Sponsored" means a Health Facility owned by or affiliated with the Corporation that is not a Catholic Sponsored Health Facility.

10. "Other Subsidiary" means a Subsidiary that does not operate a Catholic Sponsored Health Facility.

11. Approval or veto in accord with the process described in Bylaw section 10.3(f)(4)(v).

12. Majority vote of the Sponsorship Council, communicated by written consent, as defined in Bylaw Section 6.2.

13. A merger of the corporation or a "substantially all" sale/lease/disposition regarding the Corporation, its property or assets, does not require Sponsor approval: provided however, that the Sponsor and Sponsorship Council rights, as protected by the Sponsorship Provisions may not be altered as a result, unless an amendment to the relevant provision(s) in the Articles of Incorporation, Bylaws or this Matrix has been duly approved, to the extent required by this Matrix.

14. Approval of the individual Sponsor of any Catholic Sponsored Health Facility (as defined above) acting through its duly authorized governing body, but only with regard to its individually sponsored facilities, and only if the action in question affects a Catholic Sponsored Health Facility that it directly sponsors as identified below. Such approval must be evidenced by written consent, as defined in Bylaw Section 6.2.

GOVERNANCE MATRIX
Notes to Governance Matrix

Sponsor	Sponsored Facilities
SISTERS OF MERCY OF THE AMERICAS: WEST MIDWEST COMMUNITY	Mercy Medical Center Redding St. Elizabeth Community Hospital [Red Bluff] Mercy Medical Center Mt. Shasta Mercy General Hospital [Sacramento] Mercy Hospital Folsom Mercy San Juan Medical Center [Carmichael] St. Joseph's Hospital and Medical Center [Phoenix] St. Mary's Medical Center [San Francisco] Mercy Hospital [Bakersfield] Mercy Southwest Hospital [Bakersfield] St. John's Regional Medical Center [Oxnard] St. John's Pleasant Valley Hospital [Camarillo]

THE SISTERS OF ST. DOMINIC, CONGREGATION OF THE MOST HOLY ROSARY, ADRIAN, MICHIGAN.	Dominican Hospital [Santa Cruz] St. Rose Dominican Hospital Rose de Lima Campus [Henderson] St. Rose Dominican Hospital Siena Campus [Henderson] St. Rose Dominican Hospital San Martin Campus [Las Vegas]
THE SISTERS OF THE THIRD ORDER OF ST. DOMINIC, CONGREGATION OF THE MOST HOLY NAME, SAN RAFAEL, CALIFORNIA.	St. Joseph's Medical Center of Stockton St. Joseph's Behavioral Health Center [Stockton] St. Mary's Regional Medical Center [Reno]
CONGREGATION OF THE SISTERS OF CHARITY OF THE INCARNATE WORD, HOUSTON, TEXAS.	St. Berniardine Medical Center [San Bernardino] St. Mary Medical Center [Long Beach]
THE CONGREGATION OF THE DOMINICAN SISTERS OF ST. CATHERINE OF SIENA, TAOS, NEW MEXICO.	Mercy Medical Center Merced

THE SISTERS OF ST. FRANCIS OF PENANCE AND CHRISTIAN CHARITY, ST. FRANCIS PROVINCE, REDWOOD CITY, CALIFORNIA.	Marian Medical Center [Santa Maria]

15. "Mortgage" or "Encumbrance" for these purposes shall be defined to apply only to an encumbrance of "Stable Patrimony" (e.g., mortgage of real property) and shall not include a security interest in "Gross Revenue" or on individual items of equipment.

16. While the Sponsors are not required to approve a dissolution of the Corporation, the Bylaws expressly provide for reversion of their "Stable Patrimony" and related operational assets on dissolution. See Article XIII of the Bylaws.

GOVERNANCE MATRIX

Notes to Governance Matrix

17. "Joint Ventures" are defined to include any ownership interest in a partnership, corporation, or limited liability company which is less than wholly owned or controlled by the Corporation or a Subsidiary, except for such an interest acquired solely as a passive investment pursuant to the Corporation's Investment Policy. General partnership interests shall always be treated as joint ventures.

18. "Sponsorship Provisions" are those provisions that specifically cannot be amended without the approval of the Sponsors or Sponsorship Council as provided in Section 16.2 of the Bylaws.

19. The Sponsor-facility linkage concept set out in footnote 14 applies in this circumstance as it does in

footnote 14, with only the affected Sponsor required to approve. However, since this action contemplates a new facility that will be linked with the designated Sponsor, the approval applies to the new facility not yet listed in footnote 14, and requires only the Sponsor to be linked with such new facility to approve the action.

20. "Resignation as Sponsor" is expressly limited to a decision by a Sponsor to no longer be listed as a Sponsor in Article IV of the Bylaws and does not include the withdrawal of any Catholic Sponsored Health Facility from the System. Such resignation as a Sponsor requires 90 days notice to the Board and the Sponsorship Council from the resigning Sponsor, and requires only the action of the resigning Sponsor; provided, however, that such action will result in a loss of the Sponsor's reserved rights with respect to its Catholic Sponsored Health Facility or facilities, and therefore may require the Sponsor's action to alienate[22] the facility or facilities.

21. The "System" means, collectively, the affiliated group of corporations comprised of the Corporation, the Subsidiaries and the Joint Ventures, and including all of the Health Facilities.

22. "Alienation" means the transfer or conveyance of temporal goods pursuant to the Norms of Church Law of the Roman Catholic Church. The canons require authorization for the transfer of church property, over a certain value, that is part of the Stable Patrimony of a juridic person.

23. "Chief Executive Officer" means the senior executive officer of a corporation, regardless of title.

24. "Property Subject to the Norms of Church Law" means land, buildings and designated funds which are

under the Canonical stewardship of a sponsoring religious institute, province or regional community. Some of these properties have been specifically designated by the Sponsors as "Stable Patrimony," and as such, become subject to the Church law on alienation of temporal goods. Other properties are not subject to the norms on alienation, but to those of administration. For purposes of this definition, property which has been so designated is considered to be the "Stable Patrimony" of a religious institute, province, or regional community for purposes of the Law of the Roman Catholic Church *even if civil title is held by the Corporation or an organization controlled by the Corporation*.

25. Other defined terms used herein are as defined in the Corporation's Articles of Incorporation or Bylaws.

GCM 39007 (IRS GCM), 1983 WL 197946

Internal Revenue Service (I.R.S.)
General Counsel Memorandum

CHURCH PLANS I --***
CHURCH PLANS II --***

Date Numbered: July 1, 1983
Nov. 2, 1982

Section 414 -- Definitions and Special Rules
414.00-00 Definitions and Special Rules
414.08-00 Church Plan

Doc 8315054 and Doc 8325131

CC:EE-25-82,EE-26-82

Br2:JPainter
TO: S. ALLEN WINBORNE

Assistant Commissioner (Employee Plans and Exempt Organizations)

Attention: Director, Employee Plans Division

In two separate memoranda dated February 26, 1982, the Employee Plans Division (OP:E:EP:T:1) requested our concurrence or comments on proposed ruling letters to the above organizations classifying the retirement plan of each order as a 'church plan' described in I.R.C. s 414(e). As that conclusion would be inconsistent with the conclusion stated in * * *, G.C.M. 37266, I-24-77 (September 22, 1977), we find it necessary to reconsider that memorandum in the light of amendments made to I.R.C. s 414(e) by the Multiemployer Pension Plan Amendments Act of 1980 (MPPA).

ISSUE

Whether a retirement plan covering the lay employees of a religious order whose main activity is the operation of nursing homes or hospitals can be a 'church plan' within the meaning of I.R.C. s 414(e).

CONCLUSION

A retirement plan covering the lay employees of a religious order whose main activity is the operation of nursing homes or hospitals exempt from tax under section 501 may be a church plan if the requirements of section 414(e) are met.

FACTS

The subject cases involve two religious orders established by the Roman Catholic Church.

The * * * is a religious Order of Nuns that was incorporated in * * *. The general purpose of the order is to own, maintain and conduct schools, hospitals, orphanages, homes for the aged and poor, and other benevolent and charitable institutions and to receive gifts, bequests and donations from charitably inclined persons, associations and corporations for use in acquiring, maintaining and conducting such institutions. The order is listed in the *Official Catholic Directory for 1982* as being exempt from taxation under section 501.

To help it carry out its stated purpose, the order operates and maintains various health maintenance institutions including three hospitals and a home for the aged. Each of these organizations has been determined to be exempt from taxation under section 501(a).

In 1965, the order established a retirement plan for the benefit of its employees and the employees of its health maintenance institutions. The plan was

determined to be a qualified plan under section 401(a) and exempt from tax under section 501(a) by a ruling letter dated * * * 1966. After the enactment of the Employee Retirement Income Security Act of 1974 (ERISA), the order attempted to obtain a ruling that the plan qualified as a church plan under section 414(e). Because the regulations had not yet been issued, the Service did not issue the requested ruling. The order would now like to terminate the plan and use alternative methods of funding retirement benefits for its employees. The order has been advised by the Pension Benefit Guaranty Corporation to seek again a ruling from the Service on the issue of whether this plan is a church plan since this would be determinative of whether it is necessary to file a Notice of Intention to Terminate. Therefore, the order has requested a ruling that its pension plan is a church plan as defined in section 414(e), as amended by the MPPA.

The * * * is a religious congregation of women canonically erected as such by the Holy See according to the tenets and canon law of the Roman Catholic Church. The Sisters take the vows of poverty, chastity and obedience. Their stated purpose and objective is to promote the general welfare and care of the sick, poor, aged and infirm through works of a charitable nature and to participate in harmony with the Apostolate of the Roman Catholic Church in health, education, social, and other charitable and benevolent activities in which the services of religious members may be needed.

The order was incorporated under the laws of * * * in * * * and currently has * * * members. The Order is also exempt from tax under section 501(a). Over the years, members of the Order have established

hospitals, nursing homes and health care facilities. Some sisters work in these institutions, while others pursue the Church's apostolate in education, social and other charitable activities.

The order established a retirement plan for their lay employees effective January 1, 1964. (This plan is separate from the retirement plan for members of the order, known as the * * *.) The plan provided retirement benefits to the lay employees of the order and * * * hospitals until it was replaced by a second plan effective January 1, 1974. The governing boards of ten agencies established by the order have executed agreements to participate in the plan for the benefit of their employees. Each of the ten participating agencies is a separate corporation and exempt from income tax pursuant to section 501(c)(3) except for * * * which is owned and operated by the * * * the * * * corporation that is the sponsor of the Plan. For a more extensive discussion of this order and its pension plan, see * * * G.C.M. 37266, I-24-77 (September 22, 1977), where we determined that the same plan did not qualify as a church plan under the law in effect prior to the Multiemployer Pension Plan Amendments Act of 1980 (MPPA) because the order was not a church.

ANALYSIS

In general, to qualify under Code s 401(a), an employees' plan must meet the minimum participation standards of Code s 410, the minimum vesting standards of Code s 411, and the minimum funding standards of Code s 412. However, each of these sections contains a provision that provides an exemption for a 'church plan' as defined in Code s 414(e). *See* Code ss 410(c)(1)(B), 411(e)(1)(B) and 412(h)(4).

Section 414(e)(1) of the Code, as amended, defines a church plan as a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from taxation under section 501.

Section 414(e)(3)(B)(ii) provides that the term employee of a church shall include an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 and which is controlled by or associated with a church or a convention or association of churches.

Section 414(e)(3)(D) provides that an organization, whether a civil law corporation or otherwise, is 'associated' with a church or convention or association of churches if the organization shares common religious bonds and convictions with that church or convention or association of churches.

Section 414(e)(3)(A) provides that a plan otherwise qualified will qualify as a church plan if it is maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

Treas. Reg. s 1.511-2(a)(3)(ii) provides in part:

> The term 'church' includes a religious order or a religious organization if such order or organization (*a*) is an integral part of a church, and (*b*) is engaged in carrying out the functions of a church, whether as a civil law corporation or otherwise. In determining

> whether a religious order or organization is an integral part of a church, consideration will be given to the degree to which it is connected with, and controlled by, such church. A religious order or organization shall be considered to be engaged in carrying out the functions of a church if its duties include the ministration of sacerdotal functions and the conduct of religious worship. If a religious order or organization is not authorized to carry out the functions of a church (administration of sacerdotal functions and conduct of religious worship) then it is subject to the tax imposed by section 511 whether or not it engages in religious, educational, or charitable activities approved by a church. What constitutes the conduct of religious worship or the ministration of sacerdotal functions depends on the tenets and practices of a particular religious body constituting a church . . . .

Although we agree that the employees of both orders are eligible for coverage under a 'church plan', at least one of the plans will need structural changes before it can actually qualify as a 'church plan.' A church plan must be maintained either by 'a church or . . . a convention or association of churches which is exempt from tax under section 501' as provided in section 414(e)(1), or by 'an organization...the principal purpose or function of which is the administration or funding of a plan . . . for the provision of retirement benefits or welfare benefits . . . for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches', as provided in section 414(e)(3)(A).

Treas. Reg. s 1.511-2(a)(3)(ii) defines a church to include a religious order that is (a) an integral part of a church, and (b) is engaged in carrying out the functions of a church. The first sentence of s 1.511-2(a)(3)(ii) has been carried almost verbatim into the regulations under section 414(e); see s 1.414(e)-1(e). In * * * G.C.M. 37266, I-24-77 (September 22, 1977), under the law in effect before the passage of MPPA, this office considered the status of plans maintained by religious orders whose main activity was operating hospitals and held that those orders were not 'churches' and therefore, their pension plans were not 'church plans' within the meaning of section 414(e). This G.C.M. relied on *De La Salle Institute v. United States*, 195 F. Supp. 891 (N.D. Cal. 1961), in which s 1.511-2(a)(3)(ii) was approved, and applied to hold that a Catholic order whose main activities were operating schools and a winery was not a 'church'. *See also, Chapman v. Commissioner*, 48 T.C. 358, 366 (1967), (Dawson, J., concurring), where the same regulation was described as 'appropriate and reasonable'.

The only judicial decision on point is an unreported district court opinion in *Harclerode v. Sisters of Mercy*, No. 79-4022 (D. Kans. November 2, 1981). That was a private civil action in which, apparently, the views of the Department of the Treasury and the Department of Labor were not sought. The plaintiff, a former employee, alleged that the pension plan of the defendant violated the vesting requirements of ERISA. The defendant moved for summary judgment on this claim on the ground that the plan was a church plan, so that the vesting requirements of ERISA were not applicable. The Sisters of Mercy operated a hospital. Without referring to the 1980 amendments to the church plan provisions, the court held that the plan was a

church plan and granted the motion for summary judgment. The opinion stated, in part, as follows:

> . . . We find no requirement that the agency of the church have a religious purpose, provided it is exempt from tax under Section 501 of Title 26 . . . . Hospitals are frequently associated with religious orders and we do not believe that this association is the sort of abuse at which Section 513 was directed. Furthermore, we note that it is difficult to separate healing of the sick from religious purposes. The founder of the Christian faith himself also healed many as an application of his religious principles, and to further those principles. *See, e.g.* Luke 17:11-19; John 11:44-45. The treatment of the sick at Mercy Hospital contributes importantly to the purposes of the Roman Catholic Church and satisfies the test in the tax regulations. See, 26 C.F.R. s 1.513-1(d).

The *Harclerode* decision does not cite either s 1.511-2(a)(3)(ii), *supra*, or the *De La Salle Institute* decision, which seems to be an explicit rejection of the *Harclerode* analysis. In view of the fact that neither the Department of the Treasury nor the Department of Labor was a party to the action, and in view of the weakness of the court's analysis, we do not consider the decision as in any way binding on us.

Therefore, we find convincing the reasoning in * * * G.C.M. 37266, which found that a religious order was not a church. Under the principles enunciated there, neither the * * * nor the * * * qualify as a church.

Since religious orders can now have their employees covered by a church plan without a determination that

such orders are churches, this nonchurch status is not fatal. To have a qualified 'church plan', the sisters must establish that their employees are deemed employees of the Catholic Church through section 414(e)(3)(C) by virtue of the order's affiliation with the church and that the fund will be administered by one of the organizations described in the statute.

Under section 414(e)(3)(D), the sisters are 'associated with' the Catholic Church by reason of sharing 'common religious bonds and convictions' as evidenced by the listing of both orders in *The Official Catholic Directory Anno Domini 1982* (P.J. Kenedy and Sons, New York). Any organization listed in this directory is considered associated with the Roman Catholic Church in the United States. Therefore, under section 414(e)(3)(B)(ii), an employee of either order is considered as an employee of the Roman Catholic Church of the United States for purposes of the church plan rules. Conversely, under section 414(e)(3)(C), the 'convention or association of churches' is treated as the employer of the sisters' employees for purposes of those provisions .

Having established that its employees are church employees, the orders must still establish that their plans are administrated by the proper organization designated in section 414(e)(1) or (3)(A). To meet the requirements of section 414(e)(1), an order's plan would have to be established and maintained by a church or convention or association of churches. We have already established that neither order is a church. Therefore, the plan for a religious order must be maintained either by the Catholic Church, which does qualify as a church, or by an organization described in section 414(e)(3)(A). To be described in section 414(e)(3)(A), an organization must have as its

principal purpose administering the fund and must also be controlled by or associated with a church.

* * * the * * * pension trust agreement provides, in effect, that the plan is to be administered by a three-member Administrative Committee appointed by the order. (* * * the powers and duties of the Administrative Committee include the 'power to construe the Plan and to determine all questions arising thereunder, including questions submitted by the Trustee on matters pertaining to the proper discharge of its duties; to determine the status of employees and Participants with respect to the Plan; and to set forth policies and rules of interpretation and administration.') The Administrative Committee, as such, appears to have no other function than the administration of the plan. If 'association' with the church can be established, the Administrative Committee would be an organization described in section 414(e)(3)(A), so that the plan would meet the criteria of section 414(e). If there were to be an ongoing plan, we would prefer that the plan document recite that the Administrative Committee shares common religious bonds and convictions with the Catholic Church. However, as the ruling request relates to the proposed termination of the plan, and in the suspicion that the members of the Administrative Committee are probably members of the order, we suggest that parol evidence may be sufficient to establish the requisite 'association' in this case.

The administrative file relating to the * * * does not contain a copy of the plan, nor does it contain other information as to who will administer the plan. We suggest that further information on the plan's administration be sought, and, if necessary, amendment of the plan be recommended. As indicated above, the

plan will qualify as a church plan only if it is maintained by an organization, controlled by or associated with the church, whose principal purpose or function is the administration of the plan. (Incidentally, we do not believe that it is necessary for the individuals who are officers of such an organization to do so on a full-time basis or to have their role with the organization as their principal activity or responsibility.) We note parenthetically that section 414(e)(4) provides ample time for the making of an amendment if one is necessary.

In short, because of the passage of the MPPA, church plan status no longer hinges on whether an order is a church. [1] Therefore, although the test articulated in * * * G.C.M. 37266 is correct as to whether the order is a church, that issue is no longer determinative as to whether the employees of the order are eligible for coverage by a church plan. Therefore, * * * G.C.M. 37266, I-24-77 (September 22, 1977) is revoked on the ground that it is obsolete.

JAMES F. MALLOY
Director
By:
JONATHAN P. MARGET
Assistant Director
Employee Plans and Exempt Organization Division

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[1] That organizations other than churches are now eligible to have their employees covered by church plans is evidenced by the floor statement of Senator Jacob Javits.

As to the church pension plans, I might say that I am not too happy about those as it exempts those who work for schools and similar institutions which are church-related but, nonetheless, if we want a bill there were some things we had to give and that was one of them and I was very unhappy with it.

Cong. Rec. S10102 (daily ed. July 29, 1980).

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Case No. 13-cv-1450 TEH

STARLA ROLLINS on behalf of herself, individually, and on behalf of all others similarly situated,

Plaintiff,

v.

DIGNITY HEALTH, a California Non-profit Corporation, HERBERT J. VALUER, an individual, the members of the Dignity Retirement Committee, and JOHN and JANE DOES, each an individual, 1-20,

Defendants.

DECLARATION OF SAMUEL F. HOFFMAN IN SUPPORT OF DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT AND DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT

DECLARATION OF SAMUEL F. HOFFMAN

I, Samuel F. Hoffman, declare as follows:

1. I am a partner of Foley & Lardner LLP and serve as outside counsel for defendant Dignity Health regarding matters related to the Dignity Health Pension Plan (the "Plan"). In my capacity as an attorney who has represented Dignity Health, I have personal knowledge of the factual information stated in this declaration and, if called to testify, could testify

truthfully and competently to the facts contained in this declaration.

2. On or about April 23, 1993, I submitted a request for a Private Letter Ruling ("PLR") to the Internal Revenue Service ("IRS") on behalf of Catholic Healthcare West ("CHW"), Dignity Health's former name (the "1993 PLR Request"). The 1993 PLR Request sought a determination that the Plan, then known as the CHW Retirement Plan, met the requirements for church plan status under Internal Revenue Code § 414(e). Attached as Exhibit A is a true and correct copy of the 1993 PLR Request, as maintained by me in the regular course of my law practice.

3. On or about October 25, 1993, subsequent to a telephone conversation with the IRS, I provided additional information to the IRS about the Plan's predecessor plans, among other things. Attached as Exhibit B is a true and correct copy of my October 25, 1993 letter to the IRS, as maintained by me in the regular course of my law practice.

4. On or about November 16, 1993, I submitted an amended PLR request (the "Amended 1993 PLR Request") that incorporated the additional information that I provided to the IRS in my October 25, 1993 letter and provided further explanation concerning the committee that maintained the Plan at that time. Attached as Exhibit C is a true and correct copy of the Amended 1993 PLR Request, as maintained by me in the regular course of my law practice.

5. The IRS issued a favorable PLR dated December 8, 1993, confirming that the Plan met the requirements for church plan status. Attached as Exhibit D is a true and correct copy of the December 8, 1993 PLR,

as maintained by me in the regular course of my law practice.

6. Based on the IRS's 1993 PLR, and its own review of the Plan's status, in September 1995 the Pension and Benefits Guarantee Corporation ("PBGC") — the agency created by ERISA and charged with overseeing the insurance of ERISA plans — and CHW and the Plan entered a Settlement Agreement and the PBGC refunded insurance premiums that CHW had paid in connection with the Plan's initial administration, prior to the determination that the Plan was not subject to ERISA or the PBGC insurance system. A true and correct copy of the Settlement Agreement, which is a document maintained by me in the regular course of my practice and which confirms PBGC's refund to CHW, is attached hereto as Exhibit E.

7. I reviewed the PLR request from CHW subsidiary Saint Francis Memorial Hospital ("Saint Francis") dated April 29, 1994, which requested confirmation from the IRS that the plans operated by Saint Francis also qualified as church plans as of the date Saint Francis affiliated with CHW.

8. The IRS issued a favorable PLR dated March 18, 1995, confirming that the plans operated by Saint Francis qualified as church plans under Internal Revenue Code § 414(e) as of the date of affiliation between CHW and Saint Francis. Attached as Exhibit F is a true and correct copy of the March 28, 1995 PLR, as maintained by me in the regular course of my law practice.

9. On August 18, 1995, I submitted a PLR request to the IRS on behalf of CHW requesting confirmation from the IRS that the proposed merger of one of the Saint Francis plans into the CHW Plan would not

adversely affect the church plan status of the CHW Plan. Attached as Exhibit G is a true and correct copy of my August 18, 1995 letter to the IRS, as maintained by me in the regular course of my law practice.

10. The IRS issued a favorable PLR dated January 31, 1997, confirming that the merger of one of the Saint Francis plans into the CHW Plan would not adversely affect the CHW Plan's church plan status. Attached as Exhibit H is a true and correct copy of the January 31, 1997 PLR, as maintained by me in the regular course of my law practice.

11. On October 29, 1999, I submitted a PLR request to the IRS on behalf of CHW seeking confirmation that the plan that had been operated by UniHealth Foundation ("UniHealth") prior to UniHealth's merger with Catholic Healthcare West Southern California, a division of CHW, qualified as a church plan as of December 3, 1998. Attached as Exhibit I is a true and correct copy of my October 29, 1999 letter to the IRS, as maintained by me in the regular course of my law practice.

12. The IRS issued a favorable PLR dated March 20, 2000, confirming that the UniHealth plan qualified as a church plan as of December 3, 1998. Attached as Exhibit J is a true and correct copy of the March 20, 2000 PLR as maintained by me in the regular course of my law practice.

13. On or about September 27, 2012, I submitted to the IRS a request for a PLR on behalf of Dignity Health concerning the continued qualification of the Plan as a church plan after Dignity Health's 2012 restructuring (the "2012 PLR Request"). The 2012 PLR Request detailed both the reasons behind the CHW/Dignity Health restructuring and the Plan's

continued association with the Catholic Church. Attached collectively as Exhibit K is a true and correct copy of the 2012 PLR Request, as maintained by me in the regular course of my law practice.

14. As set forth in the 1993 and 2012 PLR requests, CHW was established in 1986 when two congregations of the Sisters of Mercy merged their ten hospitals. In later years, additional sister orders joined, including Sisters of St. Dominic Congregation of the Most Holy Rosary, the Third Order of St. Dominic Congregation of the Most Holy Name, the Congregation of the Sisters of Charity of the Incarnate Word, Dominican Sisters of St. Catherine of Siena, and Sisters of St. Francis of Penance and Christian Charity (St. Francis Province). These sister orders are known as the "Sponsoring Congregations." The Sponsoring Congregations were listed the Official Catholic Directory as of both the 1993 and 2012 PLR Requests. True and correct copies of the relevant pages of the Official Catholic Directory from 1993, 2012 are attached hereto as Exhibit L.

15. Additionally, based upon my research in connection with the 1993 and 2012 PLR requests, I understand that the Sponsoring Congregations were and are exempt from taxation under Section 501(a) of the Internal Revenue Code.

16. Based upon my experience of over 20 years requesting PLRs from the IRS regarding the church plan status of pension plans, each of the PLR Requests related to the December 8, 1993, March 28, 1995; January 31, 1997; and March 20, 2000 PLRs, as well as the 2012 PLR Request, included all information necessary for the IRS to make an accurate determination regarding whether the Plan meets the requirements for church plan status. Moreover, each of the

above-described PLR request letters that I prepared included a declaration signed by a CHW/Dignity Health officer under penalty of perjury that the information provided was true, correct, and complete to the best of their knowledge. It is also my understanding that the April 29, 1994 PLR request included such a declaration, as is generally required for all PLR requests (see IRS Revenue Procedure 2014-1 § 7.01(15)).

17. As of the date of this declaration, the IRS has not issued a PLR in response to the September 27, 2012 PLR request.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 20th day of April 2014, in San Diego, California.

/s/ Samuel F. Hoffman
Samuel F. Hoffman

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April 23, 1993

FILE NUMBER: 13200-118

Employee Plans Rulings
Internal Revenue Service
Assistant Commissioner (EP/EO)
Attn: E: EP: R
P.O. Box 14073, Ben Franklin Station
Washington, DC 20044

Re: Request For Private Letter Ruling –
Issues Presented: Church Plan Status
Section 414(e) Catholic Healthcare West
1700 Montgomery Street, Suite 300
San Francisco, California 94111
(415) 397-9000
E.I. No. 94-2932965O

Ladies and Gentlemen:

We hereby request a ruling on behalf of the above referenced organization (the "Organization"), the address, telephone number and identification number which are stated above. We request a ruling on the following issues:

(1) Whether the Organization's retirement plan, newly established on January 1, 1989, as the result of a merger of seven (7) prior plans, is a "church plan" within the meaning of Section 414(e) of the Code;

(2) Whether the seven (7) prior plans were "church plans" within the meaning of Section 414(e) of the Code; and

(3) Whether a 410(d) election by some of the plans which were predecessor plans to the seven (7) prior plans prohibits the Organization's new retirement plan or any of the seven (7) prior plans from being "church plans" within the meaning of Section 414(e) of the Code.

General Information

(1) The San Francisco District office of the Internal Revenue Service has examination jurisdiction over the Organization.

(2) The identical issue which is raised in this request for a private letter ruling is not in the Organization's tax return.

(3) The Organization reserves the right to withdraw this request at any time and for any reason:

(4) Copies of the following applicable documents are attached:

(a) Catholic Healthcare West Retirement Plan.

(b) Group Ruling from Internal Revenue Service dated August 9, 1991 certifying: (1) the Organization's status as a Section 501(a) tax exempt organization; (2) the relevant Hospitals' status as Section 501(c)(3) tax-exempt organizations; and (3) Mercy Health System's and Mercy Health Care Organization's status as Section 501(a) tax-exempt organizations.

(c) A copy of the Official Catholic Directory pages listing: (1) Sisters of Mercy of Burlingame, the Sisters of Mercy of Auburn and the Sisters of St. Dominic, Congregation of the Most Holy Rosary, as religious

orders recognized by the Roman Catholic Church; (2) the Hospitals at issue as official Catholic hospitals; and (3) Catholic Healthcare West and its predecessors – Mercy Health System and Mercy Health Care Organization – as official Catholic health systems organizations.[1]

(5) The reason for the Organization's offering the retirement plan is to provide the employees of its Divisions with the best affordable retirement package.

Facts

A. Catholic Healthcare West.

Catholic Healthcare West ("CHW") was created in 1986 through the merger of Mercy Health System and Mercy Health Care Organization. (*See* Sections B and C, *infra*.)

Catholic Healthcare West is a health system co-sponsored by Roman Catholic Religious Orders of Women. As such the system is committed to involvement in health care as an extension of the Roman Catholic's Church's healing ministry. CHW is a non-profit public benefit corporation incorporated in the State of California, is listed in the Official Catholic Directory Anno Domini 1991 and is a non-profit corporation exempt from taxation under Section 501(a) of the Code.

1. CHW's Sponsorship.

CHW's sponsorship is shared by: (a) the Auburn Regional Community of the Sisters of Mercy ("Sisters of Mercy of Auburn"), the mother house of which is located in Auburn, California; (b) the Burlingame

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[1] A listing in the Official Catholic Directory signifies a strong association with the Roman Catholic Church. *See* GCM 39007; *compare* GCM 39832.

Regional Community of the Sisters of Mercy, ("Sisters of Mercy Burlingame"), the mother house of which is located in Burlingame, California, and (c) the Sisters of St. Dominic of the Congregation of the Most Holy Rosary of Adrian Michigan ("Adrian Dominican Sisters"). These three religious orders are integral parts of the Roman Catholic Church (hereinafter "Church") in accordance with the Church's Code of Canon Law. The three orders have exclusive jurisdiction over the performance of certain functions of CHW, subject to some control by authorities of the Church. The three orders are listed in the Official Catholic Directory Anno Domini 1991 (P.J. Kennedy and Sons, New York) and are exempt from taxation under Section 501(a) of the Code.

Members of the co-sponsoring religious orders take vows of poverty, chastity, and obedience in accord with the requirements for religious women set forth in Canon Law. Each of the co-sponsors have a long history of involvement in the care of the sick with a special concern for the health care needs of the sick poor.

CHW is designed to foster collaborative efforts among religious orders desirous of continuing to sponsor health care institutions grounded in the tradition and values of the Roman Catholic Church. Ultimate responsibility for the direction and decisions of the corporate health care ministry resides with the co-sponsors in the persons of those who hold religious leadership positions ("General Councils") within the three sponsorship religious orders.

2. The Divisions Of CHW.

CHW operates and controls the operations for fourteen (14) health care facilities, thirteen (13) of which

are acute care facilities located in Phoenix, Arizona, Henderson, Nevada and in various locations in California. The fourteen health care facilities are subordinate corporations, or Divisions (collectively "Divisions"), of CHW. CHW is the sole corporate member for each of the Divisions. The Divisions which are relevant to this request for a private letter ruling are:

(1) St. Joseph's Hospital and Medical Center, Phoenix ("St. Joseph's");

(2) Mercy Healthcare Bakersfield ("Bakersfield");

(3) St. John's Regional Medical Center, Oxnard ("Oxnard");

(4) Mercy Hospital and Medical Center, San Diego ("San Diego");

(5) Mercy Healthcare Sacramento, consisting of five units (Mercy Regional Office, Mercy General Hospital, Mercy San Juan Hospital, Mercy American River Hospital and Mercy Hospital of Folsom);

(6) Mercy Medical Center Redding, Inc., including its subordinate corporation Shasta Senior Nutrition Programs, Inc. ("Redding"); and

(7) Mercy Medical Center Mt. Shasta ("Mt. Shasta").

These Divisions are non-profit public benefit corporations, are listed in the Official Catholic Directory Anno Domini 1991 and are non-profit corporations exempt from taxation under Section 501(c)(3) of the Code.

3. Control Of CHW And Its Divisions.

CHW is a Membership corporation with a total of nine Members representing three each from the three religious co-sponsors. The Members are appointed by the General Councils of each co-sponsoring group.

Included in the Member group of nine are the Regional Presidents (or their designates) from Regional Communities of the Sisters of Mercy of Auburn and Burlingame, and the Prioress (or her designate) from the Adrian Dominican Sisters. The remainder of the Member group is comprised of representatives from each General Council or from the Sisters at large of each co-sponsor.

The group of nine, designated as CHW Members, share equal voting rights, and have reserved powers regarding actions of CHW and its Divisions. While the reserved rights are generally exercised by the CHW Members as a group of nine, Canon Law requires that certain decisions for specific Divisions identified as owned by a specific sponsor must be made by the leadership group for that sponsor.[2] Among the reserved rights exercised by the CHW Members are the adoption of the Philosophy and Mission of CHW and the Divisions and the election of CHW's and its Division's Boards of Directors.

In addition to representation at the Members level, each of the co-sponsors' General Council also designates Sister representatives to serve on the Boards of Directors for CHW and its Divisions. The Major Superiors (Mercy Regional Presidents and Adrian Dominican Prioress) each serve as a director of CHW or, in the alternative, appoint a delegate from the respective sponsoring General Councils to serve as director. Where a Major Superior or delegate serves,

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[2] The Divisions identified as owned for Canon Law purposes by each of the sponsoring orders are the hospitals which each group brought under the general authority of CHW at the time of the 1986 merger of Mercy Health System and Mercy Health Care Organization.

the term as director is concurrent with the term as Major Superior or Council Member.

CHW's governing Board of Directors, as noted above, is elected by the CHW members and is comprised of approximately thirteen (13) individuals, six of whom are currently Sisters of the co-sponsoring religious orders. Each of the Divisions' Boards of Directors is elected by the CHW Board of Directors. Accordingly, the three religious orders can and do always effectively direct action taken by CHW and its Divisions.

4. The Retirement Plan.

CHW established and maintains a defined benefit pension plan on behalf of those Divisions of CHW who have adopted the Plan. The plan covers the employees of most of its Divisions. This system-wide plan was established effective January 1, 1989 as a result of the merger of seven (7) prior plans. The CHW defined benefit pension plan is administered by a Retirement Plan Committee, whose members are appointed by, and subject to the direction and control of, the CHW Board of Directors which, as noted above, is controlled by the three sponsoring religious orders. The Retirement Plan Committee also shares common religious bonds in connection with the church.

No election under Section 410(d) of the Code has been made for this Plan. However, the Plan has been mistakenly operated as though it were not a church plan within the meaning of Section 414(e) of the Code and Section 3(33) of the Employment Retirement Income Security Act ("ERISA"). The Plan mistakenly filed annual reports (Form 5500) and mistakenly paid PBGC premiums.

5. The Seven Prior Plans.

The Catholic Healthcare West Retirement Plan is a new plan that resulted from the merger on January 1, 1989, of the following seven prior plans ("Prior Plans"):

(1) St. Joseph's Hospital and Medical Center Retirement Plan;

(2) Catholic Healthcare West Multi-Employer Retirement Plan for the Employees of Mercy Hospital-Bakersfield – previously the Sisters of Mercy Multi-Employer Retirement Plan-Bakersfield, since 1970;

(3) Catholic Healthcare West Multi-Employer Retirement Plan for the Employees of St. John's Regional Medical Center – previously the Sisters of Mercy Multi-Employer Retirement Plan-Oxnard, since 1970;

(4) Catholic Healthcare West Multi-Employer Retirement Plan for the Employees of Mercy Hospital and Medical Center, San Diego – previously the Sisters of Mercy Multi-Employer Retirement Plan-San Diego, since 1970;

(5) Catholic Healthcare West Multi-Employer Retirement Plan for the Employees of Sisters of Mercy, Burlingame – previously the Sisters of Mercy Multi-Employer Retirement Plan-Burlingame, since 1970;

(6) Catholic Healthcare West Retirement Income Plan previously the Mercy Health Care Organization Retirement Income Plan. Catholic Healthcare West became the sponsor of this plan as a result of the merger of Mercy Health System and Mercy Health Care organization in 1986; and

(7) Mercy Health Care Organization Retirement Plan (Mt. Shasta). Catholic Healthcare West became the sponsor of this plan as a result of the merger of

Mercy Health System and Mercy Health Care Organization in 1986.[3]

A Retirement Plan Committee appointed by, and subject to the direction and control of, CHW's Board of Directors which, as noted above, is controlled by the three sponsoring orders, administered the seven Prior Plans. The Retirement Plan Committee shared common religious bonds in connection with the Church.

No election under Section 410(d) of the Code had been made for any of the seven Prior Plans. However, the plans were mistakenly operated as though they were not church plans within the meaning of Section 414(e) of the Code and Section 3(33) of ERISA. Annual reports (Form 5500) have been filed and PBGC premiums have been paid.

B. Mercy Health System.

1. Predecessor To Catholic Healthcare West.

Prior to the creation of Catholic Healthcare West, Mercy Health System was created in 1984 under the sponsorship of the Sisters of Mercy of Burlingame to facilitate direction of their health care ministry in light of the growing complexity of the health care industry. Mercy Health System was a non-profit public benefit corporation incorporated in the State of California, was listed in the Official Catholic Directory and was a non-profit corporation exempt from taxation under Section 501(a) of the Code.

With the creation of Mercy Health System, the six health care facilities sponsored by Sisters of Mercy of Burlingame which are located in California and

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[3] For the history of these prior plans see Section B(3) and (4), and Section C(3), below.

Arizona, were brought under Mercy Health System, the parent corporation, and included the following facilities which are relevant to this request for letter ruling:

(1) Mercy Hospital, Bakersfield, California;

(2) St. John's Regional Medical Center, Oxnard, California;

(3) Mercy Hospital and Medical Center, San Diego; and

(4) St. Joseph's Hospital and Medical Center, Phoenix, Arizona.

2. Direction And Control Of Mercy Health System And Its Divisions.

Mercy Health System was the parent corporation for the six Burlingame Sisters of Mercy sponsored facilities which became known as Divisions. Corporate Members for Mercy Health System were the five Sisters who were elected to the General Council of the Sisters of Mercy of Burlingame. The President for the Sisters of Mercy of Burlingame who was then known as Superior General served as Chairperson of the Members.

The Board of Directors of Mercy Health System was appointed by the Members. There were approximately eight directors up until the time of the merger with Sisters of Mercy of Auburn's Mercy Health Care Organization in 1986. Mercy Health System's Board included two ex-officio Directors, the President/ CEO of the System (a layman) and the Superior General of the Sisters of Mercy Burlingame. In addition there were four other Sisters of Mercy and two laymen who served as directors at the time of its formation.

The Boards of Directors for each of the Divisions were appointed by the Mercy Health System Board of Directors which, as noted above, was controlled by the Sisters of Mercy of Burlingame. In addition, there was a process whereby the nominees for the Divisions' Boards were interviewed by the Superior General and other representatives from the Sisters of Mercy's General Council, as well as by representatives from the Mercy Health System Board of Directors. Finally, there was a program of orientation to the System and to the Sisters of Mercy's Philosophy to ensure that provision of health care services was provided in accordance with the Sisters of Mercy Philosophy and Mission.

3. The Retirement Plans.

Mercy Health System continued to maintain the retirement plans, previously established and maintained by the Sisters of Mercy, which covered the employees of most of its Divisions. The plans were administered by a Retirement Plan Committee whose members were appointed by and subject to the direction and control of the Mercy Health System's Board of Directors, which, as noted above, was controlled by the Sisters of Mercy of Burlingame.

The four plans operated and maintained by the Sisters of Mercy prior to the organization of Mercy Health System were:

(1) the Sisters of Mercy Multi-Employer Retirement Plan (Sister of Mercy);

(2) the Sisters of Mercy Multi-Employer Retirement Plan (Bakersfield);

(3) the Sisters of Mercy Multi-Employer Retirement Plan (San Diego); and

(4) the Sisters of Mercy Multi-Employer Retirement Plan (St. John's-Oxnard).[4]

These plans were administered by the Sisters of Mercy Retirement Plan Committee whose members were appointed by the Sisters of Mercy and were composed of members of the Sisters of Mercy Central Finance Committee.

We are unaware whether any election under Section 410(d) of the Code has been filed with the Internal Revenue Service ("IRS") for any of these plans. In or about 1977 or 1978, the Sisters of Mercy Retirement Plan Committee did contemplate and affirmatively decide to file a 410(d) election with regard to each of the above four (4) listed plans. However, there exist no records as to whether or not the 410(d) election was ever filed. To date, we have been unable to ascertain from the IRS whether any 410(d) elections were filed for these plans. We have, concurrent with this request, requested copies of the Forms 5500 and any Section 410(d) elections, if any, filed with the IRS for these plans. Nonetheless, the plans have been operated, mistakenly or voluntarily, since in or about 1978 as though they were not church plans within the meaning of Section 414(e) of the Code and Section 3(33) of ERISA.

4. The St. Joseph's Hospital And Medical Center Retirement Plan.

The St. Joseph's Hospital and Medical Center Retirement Plan was administered by a Retirement Plan Committee whose members where appointed by St. Joseph's Board of Directors, which as noted above,

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[4] Each of these plans was brought under the sponsorship of Catholic Healthcare West following the 1986 merger of Mercy Health System and Mercy Health Care Organization.

was appointed by the Mercy Health System Board of Directors, which was controlled by the Sisters of Mercy. The St. Joseph's Hospital and Medical Center Retirement Plan was operated as an ERISA plan.

C. Mercy Health Care Organization.

1. Predecessor To Catholic Healthcare West.

Mercy Health Care Organization, formerly Mercy Hospitals of Sacramento, was created in 1981 under the sponsorship of the Sisters of Mercy of Auburn, then a Congregation, now a Regional Community of the Sisters of Mercy of the Americas. Mercy Health Care Organization was formed to coordinate and to manage the acute care health facilities sponsored by the Sisters of Mercy of Auburn. Mercy Health Care Organization was a non-profit public benefit corporation, was listed in the Official Catholic Directory and was a non-profit corporation exempt from taxation under Section 501(a) of the Code. Mercy Health Care Organization operated five health care facilities which included: (1) Mercy General, Sacramento, California; (2) Mercy San Juan Hospital Carmichael, California; (3) Mercy Hospital, Folsom, California;[5] (4) Mercy Medical Center Mt. Shasta, California;[6] and (5) Mercy Medical Center, Redding, California.

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[5] After the 1986 merger with Mercy Health System, Mercy Healthcare Sacramento was formed by merging the three Sacramento area hospitals – Mercy General, Mercy Folsom, and Mercy San Juan.

[6] Mercy Hospital, Mt. Shasta, California, became a wholly controlled subsidiary of Mercy Health Care Organization effective July 1, 1986. Prior to July 1, 1986, the Mt. Shasta facility was known as Mt. Shasta Community Hospital and was affiliated with Eskaton a non-profit healthcare system headquartered in Sacramento, California.

2. Direction And Control.

Mercy Health Care Organization's corporate members included voting members, which consisted of the five Sisters elected to the General Council of the Sisters of Mercy of Auburn. The Mercy Health Care Organization also had nonvoting members who were the Sisters in the total congregation who had perpetual vows (this is an old custom in religious congregations, abandoned at the time of the CHW merger).

Mercy Health Care Organization's governing board was the Board of Trustees. The Superior General for the Auburn congregation served as President of the corporation and as chairperson of the Board of Trustees. The trustees were elected by the voting members (General Council) of the corporation. Included as trustees were the Superior General of the Congregation, three to five Sisters of the Congregation, and two to three persons who were either Sisters of other congregations or laypersons.

The governing bodies for each of the five health care facilities operated by Mercy Health Care organization were appointed by the Mercy Health Care organization's Board of Trustees, which, as noted above, is controlled by the Sisters of Mercy of Auburn.

3. The Retirement Plans.

Mercy Health Care Organization established and maintained the following two retirement plans: (1) Mercy Health Care Organization Retirement Income Plan (prior to 1985 known as Mercy Hospitals'

Retirement Income Plan);[7] and (2) Mercy Health Care Organization Pension Plan (Mt. Shasta).

The Mercy Health Care Organization Retirement Income Plan was administered by a Benefits Committee whose members were appointed by Mercy Health Care Organization's Board of Trustees, which, as noted above, was elected by the General Council of the Sisters of Mercy of Auburn. The Benefits Committee shared common religious bonds in connection with the Sisters of Mercy of Auburn.

The employees at Mt. Shasta Community Hospital now known as Mercy Medical Center, Mt. Shasta, were previously covered under the Eskaton Pension Plan, beginning June 1, 1972. When Mt. Shasta Community Hospital became a wholly controlled subsidiary of Mercy Health Care Organization on July 1, 1986, Mercy Health Care Organization completely restated the Eskaton Pension Plan's terms, provisions, and conditions, effective July 1, 1986, and this restatement was substituted in lieu of the Prior Plan with respect to employees at Mt. Shasta Community Hospital.

The Vice President of Human Resources for Mercy Health Care Organization administered the Mercy Health Care Organization Pension Plan (Mt. Shasta). The Vice President of Human Resources was appointed by the Mercy Health Care Organization's Board of Trustees.

To our knowledge no election under Section 410(d) of the Code had been made for these two plans. However, it is our understanding that the plans were

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[7] [The retirement plan for the employees of Mercy Hospital, Redding, was merged into the Mercy Health Care Organization Retirement Income Plan on April 1, 1985.]

administered either voluntarily or mistakenly, as though they were not exempt church plans within the meaning of Section 414(e) of the Code and Section 3(33) of ERISA.

Discussion Of Law

A. Church Plan.

Section 414(e)(1) of the Code defines a church plan as a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from taxation under Section 501.

A plan is not subject to the requirements of Sections 162(k), 410, 411 or 412 of the Code if the plan qualifies as a church plan pursuant to Section 414(e).

Section 414(e)(3)(A) of the Code provides that a plan, otherwise qualified, will qualify as a church plan if it is maintained by an organization, whether a civil law corporation or otherwise, and the principal purpose or function of the plan is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches.

CHW's retirement plan, newly created on January), 1989, provides retirement benefits and is controlled and maintained by the Retirement Plan Committee which is an entity which is principally devoted to providing retirement benefits to the employees of St. John's Regional Medical Center, Sisters of Mercy (Burlingame), Mercy Healthcare Bakersfield, Mercy Hospital and Medical Center (San Diego), St. Joseph's Hospital and Medical Center, Mercy Medical Center (Mt. Shasta), Mercy Healthcare Sacramento, and Mercy Medical Center Redding, Inc.

The seven Prior Plans, which merger resulted in the establishment of the Catholic Healthcare West Retirement Plan, were also controlled and maintained by the same Retirement Plan Committee, which, as noted above, was an entity principally devoted to providing retirement benefits to the employees of St. John's Regional Medical Center, Sisters of Mercy, Mercy Healthcare Bakersfield, Mercy Hospital and Medical Center, San Diego, St. Joseph's Hospital and Medical Center, Mercy Medical Center Mt. Shasta, Mercy Healthcare Sacramento, and Mercy Medical Center Redding, Inc.

Section 414(e)(3)(B) of the Code defines the term "church employee" to include a duly ordained, commissioned or licensed minister of a church in the exercise of a ministry, regardless of the source of his or her compensation, and an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under Section 501 and which is controlled by or associated with a church or convention or association of churches.

Catholic Healthcare West as well as the seven Divisions are exempt from tax under Section 501 of the Code and are operated and controlled by the three sponsoring religious orders. Since, as discussed below, the three sponsoring religious orders are a "church" within the meaning of the Code, the employees of Catholic Healthcare West, the Sisters of Mercy and the seven Divisions are "church employees" within the meaning of Section 414(e)(3)(B) of the Code.

Prior to 1986, Mercy Health System and Mercy Health Care Organization as well as the hospitals operated and controlled by these groups were exempt from tax under Section 501 of the Code and were operated and controlled by the Sisters of Mercy of

Burlingame and Auburn. Since, as discussed below, the Sisters of Mercy of Burlingame and Auburn, religious orders, are a "church" within the meaning of the Code, the employees of Mercy Health System, Mercy Health Care Organization, the Sisters of Mercy, and the seven hospitals were "church employees" within the meaning of Section 414(e)(3)(B) of the Code.

Section 1.511-2(a)(3)(ii) of the income tax regulations describes the term "church" to include a "religious order or a religious organization if such order or organization (a) is an integral part of the church, and (b) is engaged in carrying out the functions of a church [i.e., the administration of sacerdotal functions and the conduct of religious worship], whether as a civil law corporation or otherwise." If an organization meets this definition and constitutes a "church," then "church status" will attach to all of its activities, including those which it conducts through a separate corporation or other separate entity which it wholly controls and which is not operated for the primary purpose of carrying on a trade or business for profit.

Under the above standard, the three sponsoring religious orders are a "church" within the meaning of the Code and that "church status" also attaches to the various hospitals, Catholic Healthcare West, Mercy Health System and Mercy Health Care Organization which are (or were in the case of Mercy Health System and Mercy Health Care Organization) wholly controlled by the sponsoring religious orders and used to carry out the orders' healing activities on a nonprofit basis.

In order for an organization to have a qualified church plan, it must establish that its employees are church employees or deemed church employees under Section 414(e)(3)(C) of the Code by virtue of the

organization's affiliation with the church and that the plan will be administrated by an organization of the type described in those Sections. Both parts of this test are satisfied for the Catholic Healthcare West Retirement Plan as well as the seven Prior Plans.

1. Church Employees.

As noted above, the employees of Catholic Healthcare West and the various hospitals are "church employees" since Catholic Healthcare West and the various hospitals are wholly controlled by the three sponsoring orders, which are a constituent part of the church. According to the Official Catholic Directory, any organization listed in this directory is considered associated with the Roman Catholic Church in the United States. See GCM 39007 and 39832. In addition, Catholic Healthcare West and the hospitals are non-profit organizations and are operated on a non-profit basis. Thus, the first part of the church plan test has been satisfied.

Likewise, the employees of Mercy Health System, Mercy Health Care Organization, the Sisters of Mercy and the various hospitals were also "church employees" since Mercy Health System, Mercy Health Care Organization and the various hospitals are and were wholly owned and controlled by or associated with the Sisters of Mercy of Burlingame or Sisters of Mercy of Auburn, which are and were constituent parts of the church as noted in the Official Catholic Directory. Further, Mercy Health System, Mercy Health Care Organization and the hospitals were not operated for profit.

2. Established And Maintained By A Church Or An Organisation Described Under Section 414(e)(3)(A).

However, an organization must also establish that its employee benefit plan is established and maintained by a church or a convention or association of churches. Since the various hospitals and Catholic Healthcare West or its predecessor organizations are not themselves a church, the Catholic Healthcare West Retirement Plan must be maintained either by the church, the sponsoring orders or by an organization described in Section 414(e)(3)(A) of the Code. To be described in said section, an organization must have as its principal purpose the administration of the plan and must also be controlled by or associated with the church.

The second part of the test is satisfied here. The Catholic Healthcare West Retirement Plan is administrated by the Retirement Plan Committee, whose sole purpose is the administration of the Catholic Healthcare West Retirement Plan. Moreover, the Retirement Plan Committee is controlled by and associated with the church since its members are appointed by CHW's Board of Directors, which is appointed by the three sponsoring religious orders. The Retirement Plan Committee also shares common religious bonds and convictions with the church and the sponsoring religious orders as a result of the organizational structure.

With regard to the seven Prior Plans, the second part of the test is also satisfied. The Sisters of Mercy Multi-Employer Retirement Plan Committee administered four of the seven Prior Plans. The Sisters of Mercy Retirement Plan Committee's sole purpose was the administration of these four Prior Plans.

Moreover, the Committee was controlled by and associated with the church since its members were appointed by the Board of Mercy Health System, which was controlled by the Sisters of Mercy of Burlingame. The Retirement Plan Committee also shared common religious bonds and convictions with the church and the sponsoring religious order.

The St. Joseph's Hospital and Medical Center Retirement Plan was administered by a Committee, called the Compensation and Evaluation Committee. The Committee's main purpose was the administration of the St. Joseph's Hospital and Medical Center Retirement Plan. The Committee occasionally considered miscellaneous compensation matters and made recommendations to St. Joseph's Board of Directors. Moreover, the Committee was controlled by and associated with the Church since its members were appointed by St. Joseph's Board of Directors, which was appointed by the Mercy Health System Board of Directors, which was controlled by the Sisters of Mercy.

Mercy Health Care Organization Retirement Plan was administered by a Benefits Committee whose sole purpose was the administration of the Plan. The Benefits Committee was controlled and associated with the Church since its members were appointed by Mercy Health Care Organization's Board of Trustees, which was elected by the General Council of the Sisters of Mercy of Auburn.

The Mercy Health Care Organization Pension Plan (Mt. Shasta) was administered by the Vice President of Human Resources for Mercy Health Care Organization. The Vice President of Human Resources was appointed by the Mercy Health Care Organization's

Board of Trustees, which was elected by the General Council of the Sisters of Mercy of Auburn.

B. Prior 410(d) Election By Some Of The Predecessor Plans Is Not Enforceable As Against The Seven Prior Plans Or The Current Plan.

Even if some of the Prior Plans' predecessor plans did make a 410(d) election, we maintain that this should have no effect on the Prior Plans or the current CHW plan. Specifically, Section 410(d)(2) provides that "[a]n election under this subsection with respect to any church plan shall be binding with respect to such plan, and, once made, shall be irrevocable!" [Emphasis added]. This section, by its terms, does not apply to new plans maintained by the same employer or successor employers. Moreover, even if it were determined that a Section 410(d) election passed from certain predecessor plans to some of the Prior Plans, there is no basis for holding that 410(d) elections by a minority of the Prior Plans survived the creation of the current system wide CHW plan in 1989. Because we do not have any conclusive evidence that 410(d) elections were actually filed by any of the Prior Plans predecessor plans we have assumed for the sake of this letter that none were filed. We simply offer this summary of our analysis on this question for your review in the event it is subsequently determined that certain of the predecessor plans did file 410(d) elections. In that case however, we request the opportunity to brief this issue more fully before the Service makes its final decision.

Conclusion

For each of the foregoing reasons, Catholic Healthcare West submits that (1) the Catholic Healthcare West retirement plan is a "church plan" within the

meaning of Section 414(e) of the Code; (2) the seven Prior Plans, the merger of which resulted in the establishment of the Catholic Healthcare West Retirement Plan, were also "church plans" within the meaning of

Section 414(e) of the Code; and (3) any 410(d) election filed with regard to a predecessor plan of the seven Prior Plans does not affect the current plan's or the seven Prior Plans' "church plan" status.

If you need any further information concerning this matter, please do not hesitate to contact me.

Very truly yours,

/s/ Samuel F. Hoffman
Samuel F. Hoffman

DECLARATION

Under the penalties of perjury, I declare that I have examined this request, including all documents that are attached to it as exhibits and, to the best of my knowledge and belief, the facts presented in support of the requested ruling are true, correct and complete.

To the best of my knowledge: (i) the issue presented herein is not present in an earlier return of Catholic Healthcare West; (ii) the Service has not previously ruled on the same or similar issue for Catholic Healthcare West; and (iii) neither Catholic Healthcare West nor any representative of it previously submitted the same or a similar issue to the Service for ruling.

Dated: 4-21-93

/s/ John R. Burgis
John R. Burgis
Chief Financial Officer

Exhibit A

Prior Plans
which have merged into the
Catholic HealthCare Retirement Plan West,

P-1 St. Joseph's Hospital and Medical Center Retirement Plan, BIN 86-0096787/001 ("St. Joseph's Plan")

P-2 Catholic Healthcare West Retirement Plan for Employees of Mercy Hospital, previously known as Catholic Healthcare West Multi-Employer Retirement Plan for the Employees of Mercy Hospital-Bakersfield, and, previously, also known as the Sisters of Mercy Multi-Employer Retirement Plan-Bakersfield), EIN 95-1660858/001 ("Mercy Bakersfield Plan")

P-3 Catholic Healthcare West Retirement Plan for Employees of St. John's Regional Medical Center, previously known as Catholic Healthcare West Multi-Employer Retirement Plan for Employees of St. John's Regional Medical Center, and, previously, also known as the Sisters of Mercy Multi-Employer Retirement Plan-Oxnard, BIN 95¬1642383/001 ("St. John's Plan")

P-4 Catholic Healthcare West Retirement Plan for Employees of Mercy Hospital and Medical Center, previously known as Catholic Healthcare West Multi-Employer Retirement Plan for the Employees of Mercy Hospital and Medical Center-San Diego, and, previously, also known as the Sisters of Mercy Multi-Employer Retirement Plan-San Diego), EIN 95-1643335/001 ("Mercy San Diego Plan"),

P-5 Catholic Healthcare West Retirement Plan for Employees of Sisters of Mercy, previously known as Catholic Healthcare West Multi-Employer Retirement Plan for the Employees of Sisters of Mercy-Burlingame, and, previously, also known as the Sisters of Mercy Multi-Employer Retirement Plan-Burlingame), EIN 94-6071848/001 ("Mercy Burlingame Plan")

P-6 Catholic Healthcare West Retirement Plan, previously known as the Mercy Healthcare Organization Retirement Income Plan, EIN 94-2932650/333 (and, prior to April 1987, EIN 94-1480909/333) ("Mercy Sacramento Plan")

P-7 Catholic Healthcare West Retirement Plan for Employees of Mercy Medical Center, Mt. Shasta, previously known as Catholic Healthcare West Retirement Income Plan, and previously also known as Mercy Healthcare Organization Retirement Plan, Mt. Shasta, EIN 94-2932650/101 ("Mercy Mt. Shasta Plan")

Exhibit B

Catholic Healthcare West
1700 Montgomery Street, Suite 300
San Francisco, California 94111

Person to Contact: Edward B. Weisel
Telephone Number: (202) 622-8400
Refer Reply To: CP:E:EP:R:7
Date: Dec 8 1993

ATTN: John R. Burgis, Chief Financial Officer

Legend:

Church = The Roman Catholic Church

Congregation A = The Auburn Regional Community of the Sisters of Mercy of the Americas, 535 Sacramento Street Auburn, CA 95603

Congregation B = The Burlingame Regional Community of the Sisters of Mercy 2300 Adeline Drive, Burlingame, CA 94010

Congregation C = The Sisters of St. Dominic of the Congregation of the Most Holy Rosary of Adrian, Michigan 1257 Siena Heights Dr. Adrian, Michigan 49221

Corporation D = Catholic Healthcare West 1700 Montgomery Street, Suite 300 San Francisco, California 94111 EIN: 94-29329650?

Hospital D-1 = St. Joseph's Hospital and Medical Center, Phoenix 350 W. Thomas Road Phoenix, Arizona 85001

Hospital D-2 = Mercy Healthcare Bakersfield 2215 Truxtun Ave. Bakersfield, CA 93301

Hospital D-3 = St. John's Regional Medical Center, Oxnard 333 North F St. Oxnard, CA 93030

Hospital D-4 = Mercy Hospital and Medical Center, San Diego 4077 Fifth Ave. San Diego, CA 92103

Hospital D-5 = Mercy Healthcare Sacramento 2710 Gateway Oaks Drive Sacramento, CA 95833

Hospital D-6 = Mercy Medical Center Redding, Inc. P. 0. Box 496009 Redding, CA 96049

Hospital D-7 = Mercy Medical Center, Mt. Shasta 914 Pine St. Mt. Shasta, CA 96067

Corporation E = Mercy Health System

Corporation F = Mercy Health Care Organization

State G = State of California

State H = State of Arizona

State I = State of Nevada

Plan X = Catholic Healthcare West Retirement Plan

Prior Plan P-1 = St. Joseph's Hospital and Medical Center Retirement Plan

Prior Plan P-2 = Catholic Healthcare West Multi-Employer Retirement Plan for the Employees of Mercy Hospital-Bakersfield (previously the Sisters of Mercy Multi-Employer Retirement Plan-Bakersfield)

Prior Plan P-3 = Catholic Healthcare West Multi-Employer Retirement Plan for the Employees of St. Johns Regional Medical Center (previously the Sisters of Mercy Multi-Employer Retirement Plan-Oxnard)

Prior Plan P-4 = Catholic Healthcare West Multi-Employer Retirement Plan for the Employees of Mercy Hospital and Medical Center, San Diego (previously the Sisters of Mercy Multi-Employer Retirement Plan-San Diego)

Prior Plan P-5 = Catholic Healthcare West Multi-Employer Retirement Plan for the Employees of the Sisters of Mercy, Burlingame (previously the Sisters of Mercy Multi-Employer Retirement Plan-Burlingame)

Prior Plan P-6 = Catholic Healthcare West Retirement Income Plan (formerly the Mercy Health Care Organization Retirement Income Plan)

Prior Plan P-7 = Mercy Health Care Organization Retirement Plan (Mt. Shasta)

Gentlemen:

This is in response to a letter dated April 23, 1993, supplemented by additional correspondence dated October 25 and November 16, 1993, in which your authorized representative requested rulings on your behalf under section 414(e) of the Internal Revenue Code.

In support of your ruling requests you have submitted the following statements and information: Congregation A, Congregation B, and Congregation C (the Congregations) are religious communities organized under the auspices, and as an integral part, of the Church, for the purposes of furthering the teachings and tenets of the Church. In furtherance of the Church's teachings and tenets, the Congregations and their members have a long history of involvement in caring for the sick with a special concern for the health care needs of the sick poor. In fulfilling their health care missions within the Church, the Congregations have established and operate a number of hospitals and related health-care institutions. Included among the hospitals organized and operated by the Congregations were Hospitals D-1 through D-7 (the Hospitals).

Corporation D is a not-for-profit membership corporation organized under the laws of State G by the Congregations in the year 1986; Corporation D oversees the health-care system co-sponsored by the Congregations. As such, Corporation D is committed to involvement in health care as an extension of the Church's healing ministry, and represents a decision by the Congregations to foster collaborative efforts, within their sponsorship of health care institutions, that are grounded in the traditions and values of the Church. Ultimate responsibility for the direction and decisions of the corporate health care ministry resides with the Congregations, each represented by persons who hold religious leadership positions within the Congregations. Corporation D has nine members: three from each of the Congregations. The head of each of the Congregations is included as one of the members, with the remaining six members- chosen either from the governing council of a congregation or from its general membership. The nine members of

Corporation D share equal voting rights and have reserved powers regarding the adoption of Corporation D's philosophy and mission; the corporate members also have reserved the right to elect the members of Corporation D's board of directors.

Corporation D operates and controls fourteen health care facilities (including the Hospitals), located in State G, State H, and State I. Each of these Hospitals is a subordinate corporation to Corporation D, and each is now characterized as a division of D. Although Corporation D is the sole corporate member of each division, each congregation also designates representatives to serve on Corporation D's board of directors and on the board of directors of each of the divisions. Corporation D's board of directors, as elected by the members, is comprised of approximately thirteen individuals; six of these board members also are members of Congregation A, B, or C. Accordingly, the Congregations can and do effectively direct action taken by Corporation D and its divisions.

Corporation D represents the result of a series of corporate reorganizations involving the Congregations respectively and various health care facilities under their control.

Congregation A formed Corporation F (a predecessor of Corporation D), a not-for-profit corporation organized under the laws of State G in 1981, to coordinate and manage several acute health care facilities which Corporation F operated in various locations in State G. The members of Corporation F were individuals that also were members of the governing board of Congregation A; these individuals elected the members of Corporation F's board of trustees. The head of Congregation A served as president of Corporation F. Hospitals D-5 and D-6 were controlled and operated by

Corporation F. Hospital D-7 was a community hospital until 1986, when it also came under the control of Congregation A's health care organization.

Congregation B created Corporation E (a predecessor of Corporation D), also a not-for-profit corporation chartered under the laws of State G, in 1984, to facilitate direction of their health care ministry, which involved sponsorship of several health care facilities in State G and State H. Membership in Corporation E consisted of five individuals who also served on the governing board of Congregation B; the members of Corporation E appointed Corporation E's board of directors. Also, the head of Congregation B served as chairperson of Corporation E's members and as an ex-officio member of its board of directors. Six health care facilities sponsored by Congregation B were organized as divisions of Corporation E. The Board of Directors of Corporation E appointed the members to the boards of directors of each of the divisions; however, each potential appointee also underwent a mandatory series of interviews with the head of Congregation B, other members of Congregation B's governing council, and members of Corporation E's board of directors. Finally, there was a program of orientation to Corporation E and to Congregation B's philosophy, to ensure that the providing of health care services was in accordance with Congregation B's philosophy and mission. Hospitals D-1 through D-4 were controlled and operated by Corporation E, prior to their merger under Corporation D.

Effective January 1, 1989, Corporation D established Plan X, a defined benefit pension plan, which is maintained for the benefit of employees of those divisions of Corporation D that have adopted the plan, and the employees' beneficiaries. The plan covers the

employees of most of Corporation D's divisions. Plan X is administered by a retirement plan committee, whose members are appointed by, and subject to, the direction and control of, Corporation D's board of directors, which is controlled by the Congregations. The sole and exclusive function of the retirement plan committee is to oversee the administration and funding of Plan X.

Plan X results from a series of plan mergers, transfers and consolidations within health care organizations sponsored by Congregation A and Congregation B. Prior Plans P-1, P-2, P-3, P-4, and P-6 were qualified defined benefit pension plans established prior to enactment of the Employee Retirement Income Security Act of 1974 (ERISA), Pub. L. 93-406. Each of these prior plans originally was established by the board of directors of an individual hospital[1] which, in turn, was controlled and operated by Congregation A or Congregation B. Prior Plan P-5 was a qualified defined benefit pension plan established by Congregation B, which covered lay employees employed in the congregation's headquarters. Each of these prior plans was administered by a retirement plan committee appointed by the board of directors of the respective individual hospital in which it was established, or (in the case of Plan P-5) by Congregation B.

After Congregation B reorganized its health care facilities by creating Corporation E, Prior Plans P-2 through P-5 were administered by a retirement plan committee whose members were appointed by and

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[1] Hospital D-1 established and maintained Prior Plan P-1; Hospital D-2, Plan P-2; Hospital D-3, Plan P-3; Hospital D-4, Plan P-4; Congregation B, Plan P-5; Hospital D-5, Plan P-6 (which also covered employees of Hospital D-6); and Hospital D-7, Plan P-7.

subject to Corporation E's board of directors. These plans were restated in 1986, at the time Corporation D was formed. After Corporation E was merged into Corporation D, Corporation D assumed the responsibility for appointing retirement plan committee members.

Administration of Prior Plan P-1 continued under the control of a retirement plan committee whose members were appointed by the board of directors of Hospital D-1; the Hospital D-1 board was, in turn appointed by and subject to the control of Corporation E's Board of Directors, all of which was under the control and direction of Congregation B. Following the merger of Corporations E and F in 1986, Corporation D's board of directors inherited the supervisory authority previously vested in Corporation E. Prior Plan P-1 was merged into Plan X, effective January 1, 1989.

After Congregation A reorganized its health care facilities by creating Corporation F, Prior Plan P-6 was administered by a benefits committee whose members were appointed by and subject to Corporation F's board of trustees. The plan was renamed in 1986, after Corporation F was merged into Corporation D. Corporation D assumed responsibility for appointing new benefits committee members at that time.

Prior Plan P-7 came under Corporation D's supervision and sponsorship after it was restated in 1986. However, Prior Plan P-7 was administered by Corporation F's vice-president of human resources, and came under the supervision of a retirement benefit committee effective January 11, 1988.

The Congregations, Corporations D, E, and F, and Hospitals D-1 through D-7 all are listed in the official

directory of the Church in the United States. The Internal Revenue Service has determined that any organization listed or appearing in the Church's official directory is an organization described in section 501(c)(3) of the Code, that is exempt from tax under section 501(a).

Based upon the preceding statements and representations, the following rulings are requested:

1. That Plan X is a church plan within the meaning of section 414(e) of the Code and has been a church plan since its effective date of January 1 1989;

2. That Prior Plans P-1, P-2, P-3, P-4, P-5, and P-6 were church plans from their respective ERISA effective dates up to the time they were merged into Plan X.

To qualify under section 401(a) of the Code, an employees' plan generally must meet the minimum participation standards of section 410 and the minimum vesting standards of section 411. Qualified pension plans also must meet the minimum funding standards of section 412. Each of these sections, however, contains an exception for a "church plan" as defined in section 414(e), unless an election has been made in accordance with section 410(d). See sections 410(c)(1)(B), 411(e)(1)(B) and 412(h)(4).

Section 414(e)(1) of the Code generally defines a church plan as a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from taxation under section 501(a) of the Code.

Section 414(e)(3)(A) of the Code provides that a plan, otherwise qualified, will qualify as a church plan if it is maintained by an organization, whether a civil law

corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

In pertinent part, section 414(e)(3)(B) of the Code provides that an "employee" of a church or convention or association of churches shall include an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 of the Code, and which is controlled by or associated with a church or a convention or association of churches.

Section 414(e)(3)(C) of the Code provides that a church or a convention or association of churches which is exempt from tax under section 501 shall be deemed the employer of any individual included as an employee under subparagraph (B) of section 414(e)(3).

Section 414(e)(3)(D) of the Code provides that an organization, whether a civil law corporation or otherwise, is "associated" with a church or convention or association of churches if the organization shares common religious bonds and convictions with that church or convention or association of churches.

In order for an organization to have a qualified church plan, it must establish that its employees are employees or deemed employees of the church or convention or association of churches under section 414(e)(3)(B) of the Code. In addition, a "church plan" must be established and maintained for its employees by a "church or by a convention or association of churches which is exempt from tax under section 501"

as provided in section 414(e)(1), or by an organization described in section 414(e)(3)(A) of the Code.

In this case the Congregations are religious communities organized under the auspices, and as an integral part, of the Church. In furtherance of Church teachings and tenets, the Congregations, Corporation D, Corporation D's predecessor Corporations E and F, and Hospitals D-1 through D-7, have a long history of involvement in caring for the sick with a special concern for the health needs of the sick poor. In fulfilling the Congregations' health care missions within the Church, Corporation D oversees the health-care system co-sponsored by the Congregations. As such, Corporation D is committed to involvement in health care as an extension of the Church's healing ministry, and represents a decision by the Congregations to foster collaborative efforts, within their sponsorship of health care institutions, that are grounded in the traditions and values of the Church.

In addition, the Congregations, Corporations D, E, and F, and the Hospitals are all organizations listed in the official directory of the Church in the United States. The Internal Revenue Service has determined that any organization listed or appearing in the Church's official directory is an organization described in section 501(c)(3) of the Code, that is exempt from tax under section 501(a). Organizations which collaborate in furthering the Church's teachings and tenets, and which are listed in the Church's official directory also are considered to be associated with, and share common religious bonds with, the Church. Under the principles of section 414(e)(3)(B) of the Code, the employees of the Congregations, the employees of Corporations D, E, and F, and the employees of the Hospitals are considered employees of organizations

which are exempt from tax under section 501 and which are either controlled by or associated with a church or convention or association of churches.

Therefore, in view of the stated purposes of the Congregations, Corporation D, E, and F, and the Hospitals, their actual activities, and their recognized status within the Church as evidenced by listing in the Church's official directory, it is concluded that the employees of the Congregations, Corporations D, E, and F, and the Hospitals are deemed employees of the Church under section 414(e)(3)(B) of the Code and for purposes of the church plan rules. Additionally, under the principles of section 414(e)(3)(C) of the Code, the Church is deemed the employer of employees of the Congregations, Corporations D, E, and F, and the Hospitals, and therefore is treated as the employer of those organizations' employees for purposes of the church plan rules of section 414(e) of the Code.

Having established that the employees of the Congregations, Corporations D, E, and F and the Hospitals are deemed to be Church employees, the remaining issue is whether the administrative committees of Plan X and the various predecessor plans of Plan X are organizations controlled by or associated with a church or convention or association of churches, the principal purpose of function of which is the administration or funding of a plan within the meaning of section 414(e)(3)(A) of the Code.

In this case Plan X is administered by a retirement plan committee whose members are appointed by and serve at the pleasure of Corporation D's board of directors, which, in turn, is ultimately answerable to the Congregations. The sole and exclusive function of the retirement plan committee is to oversee the administration and funding of Plan X. We conclude,

therefore, that the principal purpose of the retirement plan committee is the administration or funding of a plan or program for the provision of retirement benefits for employees that are deemed to be employees of a church or convention or association of churches. It is further concluded that Plan X as administered by the retirement plan committee, is a plan administered by an organization described in section 414(e)(3)(A) of the Code.

You have represented that Prior Plans P-1 through P-6 each were administered by a committee which was controlled by or associated with a church or convention or association of churches, the principal purpose or function of which was the administration or funding of a retirement plan established and maintained for church employees and their beneficiaries.

Prior Plan P-1 was administered by a retirement plan committee, appointed by and subject to the control and supervision of the board of directors of Hospital D-1, until that plan was merged into Plan X as of January 1, 1989. The sole purpose of the retirement plan committee was the administration or funding of retirement plans established and maintained for employees deemed to be church employees and their beneficiaries.

Prior Plan P-5 was administered by a retirement plan committee first appointed by members of Congregation B. Prior Plans P-2, P-3, and P-4 were each administered by a retirement plan committee whose members were first appointed by and subject to the control of members of the boards of directors of Hospitals D-2, D-3, and D-4 respectively. Subsequently the retirement plan committees were appointed by the board of directors of Corporation E, and then by the board of directors of Corporation D, until all the

prior plans were merged into Plan X as of January 1, 1989. The sole purpose of these retirement plan committees was the administration or funding of retirement plans established and maintained for employees deemed to be church employees and their beneficiaries.

Prior Plan P-6 was administered by a benefits committee first appointed by and subject to the control of the board of directors of Hospital D-5. Subsequently, the benefits committee came under the supervision and control of Corporation F's board of trustees (1981), and then Corporation D's board of directors (1986) until the plan was merged into Plan X as of January 1, 1989. The sole purpose of the benefits committee throughout was the administration or funding of a retirement plan established and maintained for employees deemed to be church employees and their beneficiaries.

We conclude, therefore, that the principal purpose of the retirement plan committees of Plans P-1 through P-5, and the principal purpose of the benefits committee of Plan P-6 was the administration or funding of a plan or program for the provision of retirement benefits for employees that are deemed to be employees of a church or convention or association of churches. It is further concluded that Prior Plans P-1 through P-5, as administered by the retirement plan committees, and Prior Plan P-6, as administered by the benefits committee each were plans administered by an organization described in section 414(e)(3)(A) of the Code.

Accordingly it is ruled that Plan X is a church plan within the meaning of section 414(e) of the Code, and has been a church plan since its effective date of January 1, 1989.

It is further ruled that Prior Plans P-1, P-2, P-3, P-4, P-5, and P-6 were church plans within the meaning of section 414(e) of the Code, from their respective ERISA effective dates until they were merged and consolidated into Plan X.

This letter expresses no opinion as to whether Plan X continues to be a qualified plan under section 401(a) of the Code. The determination as to whether a plan remains qualified under section 401(a) is within the jurisdiction of the appropriate Key District Director's office of the Internal Revenue Service.

A copy of this letter has been sent to your authorized representative in accordance with a power of attorney on file in this office.

Sincerely yours,

/s/ John G. Riddle Jr.
John G Riddle, Jr.
Acting Chief, Employee Plans
Rulings Branch

Enclosures:
--Deleted Copy of this Letter
--Notice of Intention to Disclose, Notice 437

Department of Treasury
Internal Revenue Service
Washington, DC 20224

Person to Contact: Bill Kochis
Telephone Number: (202) 622-8400
Refer Reply to: CP:E:EP:T:4
Date: Mar 28 1985

Index No.: 414.08-00

Saint Francis Memorial Hospital
900 Hyde Street
San Francisco, CA 94109-4899

Attn: Mr. Craig K. Rucker Chief Financial Officer

Church = The Roman Catholic Church

Order A = The Auburn Regional Community of the Sisters of Mercy of the Americas Auburn, California

Order B = The Burlingame Regional Community of the Sisters of Mercy Burlingame, California

Order C = The Sisters of St. Dominic of the Congregation of the Most Holy Rosary Adrian, Michigan

Corporation D = Catholic Healthcare West (CHH) San Francisco, California

Hospital H = Saint Francis Memorial Hospital San Francisco, California

Plan X = Saint Francis Memorial Hospital Pension Plan for Administrative Employees

Plan Y = Saint Francis Memorial Hospital Pension Plan for Non-Administrative Employees

State G = California Saint Franols Memorial Hospital

Ladies and Gentlemen:

This is in response to a letter dated April 29, 1994, as supplemented by letters dated. September 14, 1994, and November 11, 1994, in which your authorized representative requested rulings on your behalf concerning the status of the above-named plans as church plans within the meaning of section 414(e) of the Internal Revenue Code the "Code").

In support of your ruling requests your authorized representative has submitted the following statements and Information:

Order A, Order B and Order C (collectively, the "Orders") are separate religious communities organized under the Church. As part of their involvement in caring for the sick, the Orders have established a number of hospitals and related health-care organization. In furtherance of their mission of caring for the sick, the Orders organized Corporation D.

Corporation D is a nonprofit public benefit corporation organized under State G Nonprofit Public Benefit Corporation Law. Consistent with the beliefs of the Orders, the mission and beliefs of Corporation D are (i) the healing ministry of the Church as an essential part of the Church's mission in contemporary society; (ii) the collaboration with others who support religious values in developing a creative response to need; and (iii) the values and principles of the ethical and religious directives for Church-sponsored health care facilities.

Pursuant to Corporation D's restated articles of incorporation and restated bylaws, members of the Orders comprise in total the nine "members" of Corporation O. Three of these members must be the respective heads of the Orders. The remaining six

members are chosen by the Orders. The members of Corporation D elect or serve as the individuals on the board of directors of Corporation D. The board of directors and/or the members of Corporation D retain the power and authority over the corporate activities of Corporation D. Corporation D is listed in the official directory of the Church is being an agency of the Church and is exempt from tax under section 501(c)(3) of the Code.

Hospital H was incorporated under the laws of State G on July 1, 1938. Hospital H is a nonprofit public benefit corporation which is organized under State G Nonprofit Public Benefit Corporation Law for charitable purposes, specifically to provide high quality cost-effective care to patients of the medical staff of Hospital H and the public-at-large. By letter dated April 13, 1993, the District Director verified that Hospital H was recognized to be exempt from Federal income tax in January 1939, as an organization described in section 501(a)(3) of the Code, and that the determination letter issued in January 1939 continues in effect.

Hospital H became affiliated with Corporation D in accordance with an affiliation agreement dated October 28, 1993. As part of this affiliation, Hospital A agreed to comply with directives with certain exceptions for current physician/patient practices at Hospital H and decisions relating to the approval of certain procedures and practices. In addition, the affiliation agreement required Hospital H to change its legal structure so that its sole member is Corporation D. As the sole member of Hospital H, Corporation D is authorized and empowered to elect all but one of the members of the board of trustees of

Hospital H. The one nonelected member is a representative of Corporation D appointed by Corporation D's board of directors. Corporation D has the power to remove any member of Hospital H's board of trustees, with or without cause. The board of trustees of Hospital H and Corporation D as sole member of Hospital H are authorized to manage the affairs of Hospital H.

In addition to its power to elect or appoint all members of the board of trustees of Hospital H, Corporation D has the final authority to approve any adoption of or change in the philosophy and mission of Hospital H, all long range and strategic plans adopted by the board, all amendments to the articles of incorporation and bylaws of Hospital H, and any merger or consolidation or sale of assets of Hospital H. Further, the president and chief executive affairs of Hospital H report directly to the president of Corporation D and the board of trustees of Hospital H, and the individual or individuals holding these offices must interact on a regular basis with the president of Corporation D and other senior Corporation D management staff in addition to being accountable to the board of trustees.

The affiliation agreement also provides that Corporation D must approve Hospital H's capital and operating budgets for fiscal years that commence after the closing date of the affiliation agreement and must approve any expenditure by Hospital H that is not contained in the budget and that is in excess of the "transaction threshold" (initially established at $1,000,000). Further, Hospital H is required to pay its share of Corporation D's assessments or special costs associated with participation in Corporation D's

special programs. However, Hospital H is not obligated on Corporation D's Master Trust Indenture, unless the board of trustees of Hospital H elects to become obligated. Finally, any plan of dissolution and distribution of assets of Hospital H must be approved by Corporation D and the board of trustees of Hospital H.

Hospital H has maintained Plan X for its administrative. employees and Plan Y for its nonadministrative employees since January 1, 1961, and January 1, 1964, respectively. The plan year is the calendar year in both Plan X and Plan Y (collectively, the "Plans"). Plan X and Plan Y are defined benefit plans which have received favorable determination letters concerning their qualification under section 401(a) of the Code and the exempt status of their underlying trusts under section 501(a), dated December 3, 1983, and February 11, 1987, respectively.

The Plans cover all eligible salaried and hourly employees of Hospital H provided that they have completed one year of service. The Plans currently cover approximately 1,039 active and inactive employees. Section 2.1 of each of the Plans authorizes the board of trustees of Hospital H to appoint a retirement committee for each of the Plans. The current members of the retirement committee for each of the Plans include the same three individual members of the board of trustees of Hospital H, three individual members of the medical staff of Hospital H, four individuals who are officers/managers of Hospital H, and one individual not affiliated with Hospital H. The retirement committees for the Plans are responsible for administering the Plans, including establishing a funding policy for the Plans and determining all questions concerning the interpretation of the Plans.

The retirement committees' sole and exclusive function is to oversee the administration of the Plans. The names of the current members of each retirement committee were furnished with the ruling request.

The three Orders and Corporation D are listed in the official directory of the Church. However, Hospital H is not listed in the official directory of the Church and was not associated with or controlled by the Church prior to its affiliation agreement dated October 28, 1993.

Hospital H maintains unrelated trades or businesses, namely: apartment housing, a medical office building, a sports medicine shop and an out-patient pharmacy. Approximately 12 employees of Hospital H perform services for these unrelated trades or businesses.

Based on the preceding statements and representations, a ruling was requested that Plan X and Plan Y are qualified as "church plans" within the meaning of section 414(e) of the Code since December 23, 1993, the effective date of the affiliation of Hospital H and Corporation D.*

Three other ruling requests (Ruling Requests 3, C, and D) were withdrawn.

To qualify under section 401(a) of the Code, an employees' plan generally must meet the minimum participation standards of section 410 and the minimum vesting standards of section 411. Qualified pension plans also must meet the minimum funding

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* December 23, 1993, is the date on which State G issued a certificate of authenticity regarding the amended and restated articles of Incorporation of Hospital H, which made Corporation D the sole member.

standards of section 412. Each of these sectional however, contains an exception or a "church plan" as defined in section 414(e), unless an election has been made in accordance with section 410(d). *See*, sections 410(c)(1)(B), 411(a)(1)(B) and 412(h)(4).

Section 414(e)(1) of the Code generally defines a church plan as a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from taxation under section 501 of the Code.

Section 414(e)(2)(A) of the Code provides that the term "church plan" does not include a plan that is established and maintained primarily for the benefit of employees (or their beneficiaries) of such church or convention or association of churches who are employed in connection with one or more unrelated trades or businesses (within the meaning of section 513).

Section 414(e)(3)(A) of the Code provides that a plan, otherwise qualified, will qualify as a church plan if it is maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

In pertinent part, section 414(e)(3)(B) of the Code provides that an "employee" of a church or a convention or association of churches shall include an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 of the Code, and which is controlled

by or associated with a church or a convention or association of churches.

Section 414(e)(3)(C) of the Code provides that a church or a convention or association of churches which is exempt from tax under section 501 shall be deemed the employer of any individual included as an employee under subparagraph (B) of section 414(e)(3).

Section 414(e)(3)(D) of the Code provides that an organization, whether a civil law corporation or otherwise, is "associated" with a church or convention or association of churches if the organization shares common religious bonds and convictions with that church or convention or association of churches.

In order for an organization to have a qualified church plan, it must establish that its employees are employees or deemed employees of the church or convention or association of churches under section 414(e)(3)(B) of the Code. In addition, a "church plan" must be established and maintained for its employees by a "church or by a convention or association of churches which is exempt from tag under section 501" as provided in section 414(e)(1), or by an organization described in section 414(e)(3)(A) of the Code.

In this case, the Orders are religious communities organized under the auspices of the Church. In furtherance of the Church's teachings and tenents, the Orders and Corporation D have a long history of involvement in caring for the sick. In fulfilling the Orders' health care missions within the Church, Corporation D oversees the health care system co-sponsored by the Orders. As such, Corporation D is committed to involvement in health care as an extension of the Church's healing ministry, and represents a decision by the Orders to foster collaborative efforts, within

their sponsorship or health care institutions, that are grounded in the traditions and values of the Church.

In addition, the Orders and Corporation D are all organizations listed in the official directory of the Church. The Internal Revenue Service has determined that any organization listed in the Church's official directory is an organization described in section 501(c)(3) of the Code that is exempt from tax under section 501(a). Organizations that are listed in the Church's official directory and collaborate in furthering the Church's teachings and tenents also are considered to be associated with, and share common religious bonds with, the Church.

After Hospital H's affiliation with Corporation D, in accordance with an agreement dated October 23, 1993, Hospital H agreed to comply with directives of Corporation D and Hospital H changed its legal structure so that its sole member is Corporation D. Corporation D is authorized to elect all but one member of Hospital H's board of trustees. The facts submitted show that, after Hospital H's affiliation with Corporation D, Hospital H is managed and controlled by Corporation D. Under the principles of section 414(e)(3)(B) of the Code, the employees of Hospital H are considered employees of an organization which is exempt from tax under section 501 and which is controlled by or associated with a church or a convention or association of churches.

Therefore, in view of the stated purposes and activities of Corporation D and its control of Hospital H, together with its recognized status within the Church as evidenced by the listing of Corporation D in the Church's official directory, it is concluded that the employees of Hospital H are deemed employees of the Church under section 414(e)(3)(B) of the Code for

purposes of the church plan rules. Additionally, under the principles of section 414(e)(3)(C) of the Code, the Church is deemed the employer of employees of Hospital H, and therefore is treated as the employer of that organization's employees for purposes of the church plan rules of section 414(e) of the Code. Moreover, an insignificant number of employees of Hospital H perform services for unrelated trades or businesses.

Having established that the employees of Hospital H are deemed to be employees of the Church, the remaining issue is whether the retirement committees administering Plans X and Y, are organizations controlled by or associated with a church or a convention or association of churches, the principal purpose or function of which is the administration or funding of a plan or program within the meaning of section 414(e)(3)(A) of the Code.

Plan X and Plan Y are administered by retirement committees appointed by and serving at the pleasure of the board of trustees of Hospital H. The sole purpose and function of the retirement committees are the administration and funding of Plan X and Plan Y, as required under section 414(e)(3)(A) of the Code. Membership of the retirement committees consists of persons appointed by Hospital H's board of trustees, which is controlled by Corporation D, which, in turn, is controlled by the Orders. Therefore, the retirement committees for Plan X and Plan Y are organizations controlled by or associated with a church or a convention or association of churches, the principal purpose or function of which is the administration and funding of plans for the provision of retirement benefits for individuals (and their beneficiaries) who are deemed

to be employees of a church or a convention or association of churches within the meaning of section 414(e)(3)(A) of the Code.

Accordingly, we conclude that Plan X and Plan Y qualify as church plans under section 414(e) of the Code since December 23, 1993, the effective date of the affiliation of Hospital H and Corporation D.

This letter expresses no opinion as to whether Plan X and Plan Y continue to be qualified plans under section 401(a) of the Code. The determination as to whether a plan remains qualified under section 401(a) is within the jurisdiction of the appropriate Key District Director's office of the Internal Revenue Service.

A copy of this letter has been sent to your authorized representative in accordance with A power of attorney on file in this office.

Sincerely yours,

/s/ John G. Riddle, Jr.
John G. Riddle, Jr.
Chief, Employee Plans
Technical Branch 4

Enclosures:
Deleted copy of this letter
Notice of Intention to Disclose, Notice 437

EXHIBIT H

Department of Treasury
Internal Revenue Service
Washington, DC 20224

Person to Contact: Edward B. Weisel
Telephone Number: (202) 622-6086
Refer Reply to: CP:E:EP:T:1

Date: Jan 31 1997

Samuel F. Hoffman, Esq.
Foley Lardner Weissburg & Aronson
402 West Broadway, 23rd Floor
San Diego, California 92101-3542

Re: Ruling Requests Filed on Behalf of Catholic Healthcare West and St. Francis Memorial Hospital; Control No. 95248123029

Dear Mr. Hoffman:

The enclosed copies of a private letter ruling and "Notice of Intention to Disclose" (Notice 437), are forwarded to you under the provisions of a Power of Attorney and Declaration of Representative, or other proper authorization currently on file with the Internal Revenue Service.

Sincerely yours,

/s/ John Swieca
John Swieca
Chief, Employee Plans
Technical Branch 1

Enclosures:
Copy of the Ruling Letter
Deleted Copy of the Ruling Letter
Copy of Notice of Intention to Disclose, Notice 437

Department of Treasury
Internal Revenue Service
Washington, DC 20224

Person to Contact: Edward B. Weisel
Telephone Number: (202) 622-6086
Refer Reply to: CP:E:EP:T:1

Date: Jan 31 1997

Uniform Issue List Number 1.414.08-00

Catholic Healthcare West
1700 Montgomery St., Suite 300
San Francisco, CA 94111

ATTN: Gene Tange, Vice President/Human Resources

Legend:

Church =	The Roman Catholic Church
Congregation A =	The Auburn Regional Community of the Sisters of Mercy of the Americas
Congregation B =	The Burlingame Regional Community of the Sisters of Mercy
Congregation C =	The Sisters of St. Dominic of the Congregation of the Most Holy Rosary of Adrian, Michigan
Corporation D =	Catholic Healthcare West 1700 Montgomery Street, Suite 300 San Francisco, California 94111 EIN: 94-2932650
Hospital E =	St. Francis Memorial Hospital 900 Hyde Street San Francisco, CA 94109 EIN: 94-1156295
State F =	State of California

Plan X = Catholic Healthcare West Retirement Plan: Plan #100

Plan Y = Saint Francis Memorial Hospital Pension Plan for Administrative Employees, Plan #101

Gentlemen:

This is in response to a letter dated August 18, 1995, as supplemented by additional correspondence dated January 8 and January 9, 1997, in which your authorized representative requested rulings on your behalf under section 414(e) of the Internal Revenue Code.

Congregation A, Congregation B, and Congregation C (the Congregations) are religious communities organized under the auspices, and as an integral part, of the Church, for the purposes of furthering the teachings and tenets of the Church. In furtherance of the Church's teachings and tenets, the Congregations and their members have a long history of involvement in caring for the sick, with a special concern for the health care needs of the sick poor. In fulfilling their health care missions within the Church, the Congregations have established and operate a number of hospitals and related health-care institutions.

Corporation D is a not-for-profit membership corporation organized by the Congregations under the laws of State F in the year 1986. Corporation D oversees the health-care system co-sponsored by the Congregations. As such, Corporation D is committed to involvement in health care as an extension of the Church's healing ministry, and represents a decision by the Congregations to foster collaborative efforts, within their sponsorship of health care institutions, that are grounded in the traditions and values of the Church. Ultimate responsibility for the direction and

decisions of the corporate health care ministry resides with the Congregations, each represented by persons who hold religious leadership positions within the Congregations. Corporation D has nine members: three from each of the Congregations. The head of each of the Congregations is included as one of the members, with the remaining six members chosen either from the governing council of a Congregation or from its general membership. The nine members of Corporation D share equal voting rights and have reserved powers regarding the adoption of Corporation D's philosophy and mission; the corporate members also have reserved the right to elect the members of Corporation D's Board of Directors.

Effective January 1, 1989, Corporation D established Plan X, a defined benefit pension plan, which is maintained for the benefit of employees of those divisions of Corporation D that have adopted the Plan, and the employees' beneficiaries. By letter dated December 8, 1993, the Internal Revenue Service ruled that Plan X is a church plan within the meaning of section 414(e) of the Code.

Hospital E, an acute care hospital, was incorporated under the laws of State F on July 1, 1938, and was determined to be exempt from federal tax in 1939. Hospital E is a not-for-profit public benefit corporation, the public purpose of which is to provide high quality cost-effective care to patients of the medical staff of Hospital E and the public at large. By letter dated April 13, 1993, the District Director of the Internal Revenue Service verified that Hospital E was an organization described in section 501(c)(3) of the Code and exempt from tax under section 501(a).

Pursuant to an affiliation agreement dated October 28, 1993, Hospital E became part of the Corporation D

health-care system co-sponsored by Congregations A, B, and C. As part of this affiliation agreement, Hospital E agreed, with certain exceptions, to comply with Corporation D's directives relating to physician/patient practices and with Corporation D's decisions relating to the approval of certain medical procedures and practices. In addition, Corporation D became the sole member of Hospital E, and was empowered to elect all but one member of Hospital E's Board of Trustees. The one member of the Board of Trustees not elected by Corporation D also is a representative of Corporation D, and is appointed by Corporation D's Board of Directors. Corporation D's Board of Directors has the power to remove any member of Hospital E's Board of Trustees with or without cause. In addition, Corporation D has the final authority to approve any adoption of or change in the philosophy and mission of Hospital E, all long range and strategic plans adopted by the Board, all amendments to the articles of incorporation, and any merger or consolidation or sale of assets of Hospital E.

Hospital E has maintained Plan Y for the benefit of its administrative employees and their beneficiaries since January 1, 1961. Plan Y is a defined benefit plan determined to be qualified under section 401(a) of the Code. By letter dated March 28, 1995, the Internal Revenue Service ruled that Plan Y is a church plan within the meaning of section 414(e) of the Code and has been a church plan since December 23, 1993, the effective date of Hospital E's affiliation with Corporation D.

Congregation A, B, and C, and Corporation D are all listed in the official directory of the Church for the United States of America. The Internal Revenue Service has determined that any organization either

listed or appearing in the Church's official directory is an organization that is described in section 501(c)(3) of the Code, and is exempt from tax under section 501(a).

Corporation D now proposes to merge Plan Y into Plan X. As part of this merger, Corporation D has agreed to amend Plan X to incorporate the following provisions:

(1) Prior to October 28, 1993, while Plan Y was administered by Hospital E, Plan Y was subject to the requirements of the Employee Retirement Income Security Act of 1974 (ERISA), Pub. L. 93-406, 1974-3 C. B. 1, as amended from time to time, and as applicable to plans not controlled by a church or convention or association of churches.

(2) No present or future plan amendment's will reduce, or have the effect of reducing, benefits accrued under Plan Y for any plan participant for any plan year during which Plan Y was administered by Hospital E, and during which Hospital E was not controlled by or associated with the Church.

Based on the foregoing statements and representations, Corporation D and Hospital E request a ruling that the merger of Plan Y into Plan X will not adversely affect the church plan status of Plan X.

Section 414(e)(1) of the Code generally defines a church plan as a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from taxation under section 501 of the Code.

Section 414(e)(3)(A) of the Code provides that a plan will be treated as a church plan if it is maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program

for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

In pertinent part, section 414(e)(3)(B) of the Code provides that an "employee" of a church or convention or association of churches shall include an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 of the Code, and which is controlled by or associated with a church or a convention or association of churches.

Section 414(e)(3)(C) of the Code provides that a church or a convention or association of churches which is exempt from tax under section 501 shall be deemed the employer of any individual included as an employee under subparagraph (B).

Section 414(e)(3)(D) of the Code provides that an organization, whether a civil law corporation or otherwise, is "associated" with a church or convention or association of churches if the organization shares common religious bonds and convictions with that church or convention or association of churches.

In order for an organization that is not itself a church or convention or association of churches to have a church plan under section 414(e) of the Code, that organization must establish that its employees are employees or deemed employees of the church or convention or association of churches under section 414(e)(3)(B). Employees of any organization maintaining a plan are considered to be church employees if the organization: (1) is described in section 501(c)(3) of the Code, and is exempt from tax under section 501(a); (2) is controlled by or associated with a church or convention or association of churches; and (3) provides

for administration or funding (or both) of the plan by an organization described in section 414(e)(3)(A) of the Code.

In this case Congregations A, B, and C are religious communities organized under the auspices, and as an integral part, of the Church. In furtherance of Church teachings and tenets, Congregations A, B, and C, and Corporation D have a long history of involvement in caring for the sick with a special concern for the health needs of the sick poor. In fulfilling the Congregations' health care missions within the Church, Corporation D oversees the health-care system co-sponsored by the Congregations. As such, Corporation D is committed to involvement in health care as an extension of the Church's healing ministry, and represents a decision by the Congregations to foster collaborative efforts, within their sponsorship of health care institutions, that are grounded in the traditions and values of the Church.

After Hospital E's affiliation with Corporation D under the October 28, 1993 affiliation agreement, Hospital E's legal structure was changed so that Corporation D was its sole member, with effective control over the management and delivery of health care services within the Hospital; further, as part of the affiliation agreement, Hospital E agreed to follow the directives of Corporation D (and Congregations A, B, and C) in matters of health care. The facts submitted show that, after Hospital E's affiliation with Corporation D, Hospital E is managed and controlled by Corporation D.

It also has been demonstrated that Congregations A, B, and C, and Corporation D are organizations listed in the official directory of the Church for the

United States. Organizations so listed are organizations that are described in section 501(c)(3) of the Code and exempt from tax under section 501(a). Organizations that are listed in Church's official directory and collaborate in furthering the Church's teachings and tenets also are considered to be associated with and share common religious bonds with, the Church. Moreover, Hospital E, as controlled by Corporation D, also follows the teachings and tenets of the Church and Congregations A, B, and C in health care matters. Thus, Hospital E can, since the October 28, 1993 affiliation agreement, be described as sharing common religious bonds with the Church, and as being associated with the Church within the meaning of section 414(e)(3)(D) of the Code. Further, under the principles of section 414(e)(3)(B) of the Code, the employees of Hospital E are considered employees of an organization which is exempt from tax under section 501 and which is controlled by or associated with a church or convention or association of churches.

We conclude, therefore, that the merger of Plan Y into Plan X, thereby allowing Plan X to extend coverage to the administrative employees of Hospital E and their beneficiaries, is an extension of Plan X coverage to employees who are employed in an organization that is part of Corporation D's health care system, and who are deemed to be Church employees under the principles of sections 414(e)(3)(B) and 414(e)(3)(C) of the Code. The fact that certain benefits accrued in Plan Y prior to October 28, 1993 (when Plan Y was subject to ERISA), did not alter the fact that Plan Y became a church plan after Hospital E merged with Corporation D. Further, the fact that certain benefits accrued in Plan Y when that plan was subject to ERISA does not invalidate the fact that, since October 28, 1993, Hospital E employees are

deemed to be Church employees participating in a plan that is a church plan within the meaning of section 414(e) of the Code.

Accordingly, it is ruled that the merger of Plan Y into Plan X will not adversely affect the church plan status of Plan X.

This letter ruling assumes that Plan X continues be a church plan within the meaning of section 414(e) of the Code, as established in the private letter ruling issued to Corporation D on December 8, 1993. It is further assumed that Plan Y will continue to be a church plan within the meaning of section 414(e) until the date of its merger into Plan X, as established in the private letter ruling issued to Hospital E on March 28, 1995.

This letter ruling further assumes that Plan X, amended as provided herein, satisfies the requirements for qualification under section 401(a) of the Code. However, the determination as to whether a plan is qualified under section 401(a) of the Code is within the jurisdiction of the appropriate Key District Office of the Internal Revenue Service.

A copy of this letter has been sent to your authorized representative in accordance with a power of attorney on file in this office.

Sincerely,

/s/ John Swieca
John Swieca
Chief, Employee Plans
Technical Branch 1

Enclosures: Deleted Copy of this Letter
Notice of Intention to Disclose, Notice 437
Copy of Notification Letter (Form 1155) to
Authorized Representative

Department of Treasury
Internal Revenue Service
Washington, DC 20224

Person to Contact: Mr. Joe Badinelli #50-00238
Telephone Number: (202) 622-8161
In Reference To: T:EP:RA:T2

Date: Mar 20 2000

Mr. Samuel F. Hoffman
Foley & Lardner
402 West Broadway
23rd Floor
San Diego, CA 92101-3542

Re: Private letter request on behalf of Catholic Healthcare West

Dear Mr. Hoffman:

The enclosed documents are sent to you pursuant to a power of attorney (Form 2848) on file with this office.

Sincerely yours,

/s/ Joyce E. Floyd
Joyce E. Floyd, Manager
Employee Plans Technical Group 2
Tax Exempt and Government Entities Division

Enclosures:
Copy of Letter
Deleted Copy of Letter
Notice of Intention to Disclose

Department of Treasury
Internal Revenue Service
Washington, DC 20224

Person to Contact: Mr. Joe Badinelli #50-00238
Telephone Number: (202) 622-8161
In Reference To: T:EP:RA:T2

Date: Mar 20 2000

Catholic Healthcare West
1700 Montgomery Street
Suite 300
San Francisco, CA 94111

Attn.: Larry Y. Wilson EVP

Legend:

Church A = Roman Catholic Church

Corporation B = Catholic Healthcare West

Corporation M = Catholic Healthcare West Southern California

Corporation N = UniHealth Foundation

Order C = Auburn Regional Community of the Sisters of Mercy of the Americas

Order D = Burlingame Regional Community of the Sisters of Mercy

Order E = Sisters of St. Dominic of the Congregation of the Most Holy Rosary of Adrian, Michigan

Order F = Daughters of Charity of St. Vincent de Paul, Province of the West

Order G = Sisters of Charity of the Incarnate Word, Houston, Texas

Order H = Dominican Sisters of San Rafael

Order I =	Dominican Sisters of St. Catherine of Siena, of Kenosha, Wisconsin
Order J =	Sisters of St. Francis of Penance and Christian Charity
Order K =	Franciscan Sisters of the Sacred Heart, Frankfort, Illinois
Directives L =	Ethical and Religious Directives for Catholic Health Care Services
Law O =	California Nonprofit Public Benefit Corporation Law
Directory P =	*The Official Catholic Directory*
Committee Q =	Catholic Healthcare West Strategic Benefits Committee
Plan X =	UniHealth Pension Plan
Plan Y =	CHW-UniHealth Pension Plan

Dear Mr. Wilson:

This letter is in response to a letter dated October 29, 1999, as supplemented by letters dated December 9, 1999, and January 19, 2000, in which a ruling was requested on your behalf with respect to the applicability of section 414(e) of the Internal Revenue Code ("Code") to Plan Y. Your authorized representative submitted the following facts and representations:

Corporation B is a nonprofit public benefit corporation organized for charitable purposes under Law O. Corporation B is an organization described in section 501(c)(3) of the Code which is exempt from taxation under section 501(a) of the Code and is listed in Directory P. It was formed in 1986 to oversee the Church A health care system co-sponsored by Orders C and D.

Corporation B was joined in 1988 by Order E, in 1995 by Order F, in 1996 by Orders G, H, and I, and in 1997 by Orders J and K. [The foregoing religious sponsors of Corporation B are herein collectively referred to as the "Orders".] Each of the Orders is exempt from taxation under section 501(a) and is listed in Directory P.

Corporation B is involved in health care as an extension of Church A's healing ministry, and its formation and operation represents a decision by the Orders to foster collaborative efforts, within their sponsorship of health care institutions, that are grounded in the traditions and values of Church A. Consistent with the beliefs of the Orders, the missions and beliefs of Corporation B are as follows: (i) the healing ministry of Church A as an essential part of Church A's mission in contemporary society; (ii) the collaboration with others who support Judeo-Christian values in developing a creative response to health care need; and (iii) the values and principles of Directives L.

Ultimate responsibility for the direction and decisions of Corporation B's health care ministry resides with its ten corporate members, each of whom hold a religious leadership position within one of the Orders. Pursuant to Corporation B's restated Articles of Incorporation, Orders C, D, E, and F each appoint two corporate members, and Orders G and H each appoint one corporate member. For these member positions, the head of the particular Order or a designee is appointed to serve. The individual Orders that receive additional corporate member positions select the remaining member from that Order's governing counsel or from its general membership. Each of the ten corporate members of Corporation B share equal voting rights. The corporate members also have certain

reserved powers over Corporation B, including the power to approve any change or amendment of Corporation B's philosophy and mission. In addition, pursuant to Corporation B's restated Articles of Incorporation and restated Bylaws, Corporation B's corporate members elect the Board of Directors of Corporation B. The Board of Directors also retains certain powers and authorities over the corporate activities of Corporation B and its subsidiaries.

Corporation B operates and controls approximately 46 general acute care hospitals. Each of these hospitals is part of a subordinate corporation to Corporation B that groups the hospitals together in a manner that is characterized as a region or division of Corporation B. Corporation B is the sole corporate member of each subordinate corporation that is a region or division, and the Bylaws of each such corporation require that at least one member of that division's or region's Board of Directors be a member of an Order.

Corporation M is a division of Corporation B and is a nonprofit public benefit corporation organized for charitable purposes under Law O, specifically to carry out the health care ministry of Church A. Corporation M is operated as a part of the health care system controlled, coordinated, directed and supervised by Corporation B. Corporation B is the sole corporate member of Corporation M and, as such, has the sole power to appoint and elect members of Corporation M's Board of Directors. Corporation M is listed in Directory P and is exempt from taxation under section 501(a) of the Code.

Corporation N is a nonprofit public benefit corporation organized for charitable purposes under Law O and is exempt from taxation under section 501(a) of the Code. Prior to December 3, 1998, Corporation N

operated and controlled the operation of eight health care facilities. Corporation N was the sole corporate member of each of the facilities.

Corporation N maintained Plan X for its employees and those of the facilities. Plan X is qualified under section 401(a) of the Code and received a favorable determination letter.

Corporation M entered into an Asset Purchase Agreement and Plan of Merger with Corporation N on September 28, 1998, which called for the facilities to terminate their affiliation with Corporation N. The facilities as separate corporations were to merge with Corporation M. Upon the merger, the separate corporate existence of the facilities was to cease to exist, and Corporation M would continue as the surviving corporation. On December 3, 1998, Corporation N's affiliation with the facilities terminated and the facilities became owned and operated by Corporation M and a part of Corporation B.

Effective December 3, 1998, Corporation B became the plan sponsor and sole contributing sponsor of Plan X. Corporation B changed the name of Plan X to Plan Y. After Corporation B became the plan sponsor, Plan Y covered solely the employees of the eight health care facilities. There are no employees of for-profit entities who have accrued benefits under Plan Y after Corporation B became the plan sponsor in December of 1998.

Following the merger, Corporation B's Board of Directors acquired the power to appoint the Plan Y administrator and appointed Committee Q to be the plan administrator of Plan Y on December 3, 1998. Committee Q is an organization the principal purpose or function of which is the administration of Plan Y and other Corporation B retirement plans. Committee

Q has seventeen members, all of whom are appointed by Corporation B's Board of Directors.

Based on the foregoing facts and representations, you request a ruling that Plan Y is, and has been since December 3, 1998, a "church plan" within the meaning of section 414(e) of the Code.

Section 414(e)(1) of the Code defines a church plan as a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches that is exempt from taxation under section 501 of the Code.

Section 414(e) was added to the Code by section 1015 of the Employee Retirement Income Security Act of 1974 (ERISA), Public Law 93-406, 1974-3 C.B. 1, enacted September 2, 1974. Section 1017(e) of ERISA provided that section 414(e) applied as the date of ERISA's enactment. However, section 414(e) subsequently was amended by section 407(b) of the Multiemployer Pension Plan Amendments Act of 1980, Public Law 96-364, to provide that section 414(e) was effective as of January 1, 1974.

Section 414(e)(3)(A) of the Code provides that a plan, otherwise qualified, will qualify as a church plan if it is maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

Section 414(e)(3)(B) of the Code defines "employee" to include a duly ordained, commissioned, or licensed minister of a church in the exercise of a ministry,

regardless of the source of his or her compensation, and an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 of the Code, and which is controlled by or associated with a church or a convention or association of churches.

Section 414(e)(3)(C) of the Code provides that a church or a convention or association of churches that is exempt from tax under section 501 shall be deemed the employer of any individual included as an employee under section 414(e)(3)(B).

Section 414(e)(3)(D) of the Code provides that an organization, whether a civil law corporation or otherwise, is associated with a church or a convention or association of churches if the organization shares common religious bonds and convictions with that church or convention or association of churches.

To have or participate in a qualified church plan, an organization must establish that its employees are employees or deemed employees of a church or convention or association of churches under section 414(e)(3)(B) of the Code by virtue of the organization's affiliation with the church or convention or association of churches and that the plan will be administered by an organization of the type described in section 414(e)(3)(A). If an organization's name appears in Directory P, that organization is considered to share common bonds and convictions with Church A, and therefore is considered to be associated with Church A for church plan purposes. Its employees are deemed to be employees of Church A.

The information submitted shows that the health care facilities that were previously operated and controlled by Corporation N were sold and became owned

and operated by Corporation M and a part of Corporation B. Corporations B and M are listed in Directory P. Further, Corporation B controls Corporation M as Corporation M's sole corporate member. Moreover, Corporation B's corporate members are appointed by Orders C, D, E, F, G, and H, each of whom is also listed in Directory P. Therefore, under the principles of section 414(e)(3)(B) and (C) of the Code, the employees of the health care facilities eligible to participate in Plan Y, who became employees of Corporation M by the merger dated December 3, 1998, are considered to be employees of Church A and Church A is considered to be the employer of such employees for purposes of the church plan rules since December 3, 1998.

Having established that the employees of the health care facilities that participate in Plan Y are "church" employees, the remaining issue is whether Committee Q is an organization controlled by or associated with a church or convention or association of churches, the principal purpose or function of which is the administration or funding of a plan within the meaning of section 414(e)(3)(A) of the Code.

Because Committee Q's principal function is the administration of Plan Y and other retirement plans of Corporation B, Committee Q constitutes an organization the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits for the employees participating in Plan Y. Further, Committee Q is associated with Church A because Corporation B's Board of Directors appoints its members and Corporation B is associated with Church A. Therefore, Committee Q is deemed to be an organization described in section 414(e)(3)(A) of the Code.

Therefore, we conclude that Plan Y is, and has been since December 3, 1998, a "church plan" within the meaning of section 414(e) of the Code.

This letter expresses no opinion as to the qualified status of Plan Y under section 401(a) of the Code. The determination as to whether a plan is qualified under section 401(a) is within the jurisdiction of the appropriate Key District Director's office of the Internal Revenue Service.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent.

A copy of this letter has been sent to your authorized representative in accordance with a power of attorney on file in this office.

Sincerely yours,
/s/ Joyce Floyd
Joyce Floyd, Manager
Employee Plans Technical Group 2
Tax Exempt and Government Entitites Division

Enclosures:
Deleted Copy of this Letter
Notice of Intention to Disclose

cc: District Director
Western Key District Office
Att.: Chief, EP/EO Division

cc: Samuel F. Hoffman
Foley & Lardner
402 West Broadway
23rd Floor
San Diego, CA 92101-3542

[LOGO] FOLEY

FOLEY & LARDNER LLP
ATTORNEYS AT LAW
402 W. BROADWAY, SUITE 2100
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619.234.6655 TEL
619.234.3510 FAX
foley.com
shoffman@foley.com email

RULING REQUEST SUBMISSION

September 27, 2012

Client/Matter Number: 113201-0105
Via Federal Express

Courier's Desk
Internal Revenue Service
Attention: SE:T:EP:RA
1111 Constitution Avenue, N.W. – NCA
Washington, D.C. 20224

Re: Request for Ruling with Respect to Church Plan Status of the Dignity Health Pension Plan[1] and other retirement plans maintained by Dignity Health.

Dear Madam or Sir:

On behalf of Dignity Health, a ruling is requested that the Dignity Health Pension Plan (the "Plan")[2] and other retirement plans listed in Section B.6 below (collectively "Plans"), continue to be "church plans" within the meaning of Section 414(e) of the Internal

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[1] Presently named Catholic Healthcare West Pension Plan but will be renamed the Dignity Health Pension Plan shortly.

[2] A copy of the Dignity Health Pension Plan is included in Exhibit C.

Revenue Code (the "Code") following Dignity Health's January 17, 2012 reorganization.

A. INTRODUCTION

Catholic Healthcare West ("CHW") was a multi-hospital health system in California, Nevada and Arizona that was founded by Orders of Women Religious of the Roman Catholic Church (the "Sponsoring Congregations").[3] On January 17, 2012, the Sponsoring Congregations ceded formal control to a self-perpetuating Board of Directors and renamed the Corporation "Dignity Health," while retaining sufficient control to insure continued adherence to Catholic teachings and health directives in both hospital and pension/employee benefit administration. This restructuring was developed and implemented by the Sponsoring Congregations in consultation with Archbishop George Niederauer of San Francisco and Church theologians, so that the hospitals they had founded (the "Catholic Sponsored Hospitals") could continue to be part of a system that included non-Catholic sponsored hospitals that, while being subject to most Catholic health care directives, were not prohibited from offering direct sterilization procedures. Prior to the reorganization, the Plan and other Plans were church plans, this submission seeks a

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[3] Sisters of Mercy of the Americas, West Midwest Community; Sister of St. Dominic, Congregation of the Most Holy Rosary, Adrian, Michigan; Sisters of the Third Order of St. Dominic, Congregation of the Most Holy Name, San Rafael, California; Congregation of the Sisters of Charity of the Incarnate Word, Houston, Texas; Congregation of the Dominican Sisters of St. Catherine of Siena, Taos, New Mexico; Sisters of St. Francis of Penance and Christian Charity, St. Francis Province, Redwood City, California.

ruling from the IRS confirming the Plans' continued church plan status.

B. STATEMENT OF FACTS

1. Taxpayer Information

The Taxpayer is a nonprofit corporation, exempt from tax under Code Section 501(c)(3), and organized under the laws of California.[4] It is the fifth largest health system in the United States, which, in 2011, provided $1.4 billion in charity care, community benefit and unreimbursed patient care. Dignity Health employs 55,000 employees across Arizona, California, and Nevada. Its network includes 40 acute care hospitals.[5] Dignity Health's principal offices are located at 185 Berry Street, Suite 300, San Francisco, California 94107, its telephone number is (415) 438-5500, and its facsimile number is (415) 438-5728. Dignity Health's federal employer identification number is 94-1196203.

2. The Establishment of Catholic Healthcare West

The Sponsoring Congregations founded a number of hospitals throughout California, Nevada, and Arizona during the late 19th and early 20th centuries in furtherance of the healing ministry of the Church. In 1986, the Sisters of Mercy (who at that time were two separate congregations) joined their hospitals together to form CHW. The Sisters had decided that the realities of modern health care required that they combine

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[4] Taxpayer filed a Form 1023 in December 2011 as it had previously relied on a group ruling under the Official Catholic Directory for its exemption.

[5] See "Corporate Organization Charts" for Dignity Health from before and after the reorganization that are attached hereto as Exhibit N.

their individual hospitals together for group purchasing, provider network contracting, finance and administration, if they were going to be able to continue their healing ministry in the tradition of the Catholic Church.

In 1998 the Adrian Dominican Sisters brought their two hospitals into CHW, in recognition of the value to be brought to their health care ministry from being part of a larger health system. For the same reasons, the Sisters of Charity of the Incarnate Word, Houston Texas; the Sisters of the Third Order of the St. Dominic, Congregation of the Most Holy Name, San Rafael, California; the Congregation of the Dominican Sisters of St. Catherine of Siena; and the Sisters of St. Francis of Penance and Christian Charity have, since 1988, joined their hospitals with CHW.

3. The Addition of Community Hospitals

During the 1990s and early 2000s, the Sisters concluded that, in a number of geographic areas, the viability of CHW and their ability to spread their healing ministry would be strengthened by collaborating with non-Catholic community hospitals and allowing them to join and become part of the CHW controlled group. These non-Catholic hospitals, starting with Methodist Hospital of Sacramento in 1993, were brought in under a "protocol that required them to follow Church teachings on abortions, assisted suicide, and several other procedures, but allowed them to perform direct sterilization, which the Church does not permit."[6] This arrangement was known as the "community hospital model" and the Church teachings the community hospitals followed were set forth in a

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[6] See p. 2 of the February 17, 2001 statement of San Francisco Archbishop Niederauer attached hereto as Exhibit H. 7

"Statement of Common Values" that was prepared and periodically revised by CHW.[7] The bishops, whose diocese included CHW and the community hospitals, approved this "community hospital" protocol when it was established in the mid-1990s. The "Statement of Common Values" included most, but not all, of the Ethical and Religious Directives for Catholic health care services (sometimes referred to herein as "ERD").[8] The ERD are issued by the United States Conference of Catholic Bishops and are the rules for Catholic Health Care Services in the United States. Under this Community Hospital model, 15 community hospitals have joined CHW since 1994; all but two of them joined CHW in the 1990s, with the last two joining in 2004. Nine of the community hospitals became *dbas* of CHW, and five became CHW corporate subsidiaries. All the corporate subsidiary community hospitals are exempt from tax under Code Section 501(c)(3).

4. Reorganization of Catholic Healthcare West

a. Reasons for the Reorganization

In 2001, the United States Conference of Catholic Bishops updated the ERD and, at the suggestion of the Vatican Congregation for the Doctrine of the Faith, that was then chaired by the current Pope, omitted an appendix on cooperation with non-Catholic health care entities, that had been appended to the 1995 edition of the ERD. The following explanation was given in the 2009 edition regarding this deletion:

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[7] A copy of the current Statement of Common Values is included as Exhibit G.

[8] A copy of the current Ethical and Religious Directives for Catholic Healthcare Services, which were issued in 2009, is included as Exhibit D.

> "This new edition of the Ethical and Religious Directives omits the appendix concerning cooperation, which was contained in the 1995 edition. Experience has shown that the brief articulation of the principles of cooperation that was presented there did not sufficiently forestall certain possible misinterpretations and in practice gave rise to problems in concrete applications of the principles. Reliable theological experts should be consulted in interpreting and applying the principles governing cooperation, with the proviso that, *as a rule, Catholic partners should avoid entering into partnerships that would involve them in cooperation with the wrongdoing of other providers*" (emphasis added).[9]

A new Directive 70 was added to the ERD which provided that "Catholic healthcare organizations are not permitted to engage in immediate material cooperation in actions that are intrinsically immoral, such as abortion, euthanasia, assisted suicide and *direct sterilization*" (emphasis added). The revised ERD also contained the following relevant provisions regarding cooperation with non-Catholic partners. In any arrangement with non-Catholic partners, who may be involved in activities "judged morally wrong by the Church," a Catholic health care organization must limit its "involvement to what is in accord with moral principles governing cooperation [with non-Catholic entities]." Directive 69. The "possibility of scandal" must also be considered when applying the principles of cooperation; the diocesan Bishop has the final responsibility for assessing and addressing issues of scandal, considering not only the circumstances in his

[9] Quoted from the current ERD that was issued in 2009.

local diocese but also the regional national implications of his decision.[10] Directive 71. Finally the Catholic partner in an arrangement with non-Catholic partners has the responsibility to periodically assess whether the binding agreement to follow Church ethical rules is being observed and implemented in a way that is consistent with Catholic teaching. Directive 72.

In view of this refinement and strengthening of the Church's rules regarding cooperation, the Sponsoring Congregations, along with the leadership of CHW, began a reassessment of the Community Hospital model that had been developed with the Bishops under the old ERD in the 1990s. Appropriate input from Church theologians was also sought out. In February 2011, the Sponsoring Congregations began discussions with Archbishop George Niederauer of San Francisco to discuss a possible restructuring of CHW to resolve these issues. Because Archbishop Niederauer is the bishop of the diocese where CHW was headquartered, it was his responsibility to evaluate the proposed changes in light of the norms of Catholic moral teaching and Church laws.[11] Archbishop Niederauer agreed that the existing CHW arrangement was unsustainable because "among other important things, it was confusing for patients, their families, health care workers, Church leaders, and others, as they couldn't

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[10] Note 45 to the 2009 ERD: "Scandal is the attitude or behavior which leads another to do evil." (No. 2284); "Anyone who uses the power at his disposal in such a way that it leads others to do wrong becomes guilty of scandal and responsible for the evils that he has directly or indirectly encouraged" (No. 2287) Catechism of the Catholic Church.

[11] Archbishop Niederauer's Statement of January 23, 2012 regarding Reorganization is attached hereto as Exhibit L.

be certain whether a hospital bearing the name Catholic Healthcare West was Catholic or non-Catholic." Archbishop Niederauer's Statement of February 17, 2012, Exhibit H. The goal of the Sponsoring Congregations, as they crafted a new organizational structure in collaboration with Archbishop Niederauer, was to bring it into compliance with the 2009 ERD's rules on collaboration, including ending confusion regarding full Catholic status of the community hospitals, while retaining Catholic sponsorship of the hospitals the Sponsoring Congregations had founded and allowing them to continue exercising a "vital Catholic evangelical influence on the [reorganized] system," including the community hospitals who would be required to continue adhering to the Statement of Common Values." The Sponsoring Congregations and Archbishop Niederauer engaged in a nearly nine-month long dialogue about the restructuring, during which time Archbishop Niederauer engaged several Catholic moral theologians and consulted widely with both the bishops that have CHW facilities in their diocese and the Chairman of the United States Catholic Conference of Bishops' Task Force on Health Care. Archbishop Niederauer's Statement of February, 17 2012, Exhibit H. Archbishop Niederauer concluded, based on this dialogue, that the proposed reorganization of CHW, into the new Dignity Health structure would enable the Sponsoring Congregations and the Catholic hospitals of CHW to "operate in full compliance with the Ethical and Religious Directives for Catholic Healthcare" and "sustain the commitment of [community] hospitals currently in CHW" to certain vital principles safeguarding life and ethics" which are contained in their current Statement of Common Values. Archbishop Niederauer's Statement of January 23, 2012, Exhibit L. Archbishop Niederauer also noted

that Dignity Health will "increase the ongoing dialogue between their Catholic hospitals and local bishops about vital issues in Catholic health ethics." *Id.*

Based on this review and those conclusions, Archbishop Niederauer granted a *nihil obstat* for the reorganization to proceed; a *nihil obstat* is a declaration that the reorganization does not conflict with the teachings of the Catholic Church. Finally, Archbishop Niederauer expressed his "hope and belief that these ministries of health care launched more than 150 years ago by heroic Catholic religious women of faith, health, and sacrifice will continue to flourish for many decades to come." Archbishop Niederauer's Statement of January 23, 2012, Exhibit L.

After the restructuring was announced, media reports left many with the impression that CHW's Catholic hospitals had become secular health care facilities; as a result, Archbishop Niederauer issued a statement declaring emphatically that "this is not the case." Archbishop Niederauer's Statement of February 17, 2012, Exhibit H. Similarly, Catholic Health Association President, and CEO, Sister Carol Keehan, stated that "we do not see [the CHW reorganization] as separating from the Church; they worked this corporate structure out in consultations with many bishops." Modern Healthcare.com "Business Conversion," January 28, 2012. William Cox, President of the Alliance of Catholic Health Care, a membership organization for California Catholic hospitals, told Catholic Nurses Services that the "primary rationale" for the change was to bring the Catholic hospitals in the Dignity Health system "in compliance with the moral and doctrinal tenets of the Church;" the new structure will allow "the identity and integrity of the Catholic hospitals to be protected and strengthened, Cox said.

Catholic News Service. *"New Structure Makes CHW No Longer Officially Catholic,"* January 27, 2012. Dignity Health will remain a member of the Alliance of Catholic Health Care. *Id.* Sister Judy Carle, Dignity Health's Board Vice Chair, said that CHW leadership had discussed splitting the system into non-Catholic and Catholic components, but concluded that "would go against the system's belief in inclusivity." Modern Healthcare.com, *supra.*

b. The Resulting Organization

As described above, the goal of this very careful restructuring is to allow the Sponsoring Congregations to continue their healing ministry in the Catholic tradition by sponsoring Catholic hospitals and to continue the System's partnership with its community hospitals in a manner that is consistent with Catholic teaching, while at the same time making it very clear that the Church does not endorse direct sterilization.

i. Key Elements of Reorganization that are Designed to Distance the Church and Sponsoring Congregations from the Community Hospital's Direct Sterilization.

(A) Catholic Healthcare West's name has been changed to Dignity Health so that the word "Catholic" is not applied to community hospitals that are providing direct sterilization services.

(B) The Sponsoring Congregations have transferred control of CHW to a self-perpetuating Board of Direc-

tors, so that the Sponsoring Congregations cannot be said to be approving direct sterilization.

(C) Dignity Health itself will no longer be listed in the Official Catholic Directory, however, 23 of the 24 Catholic Sponsored Hospitals, which are *dbas* of Dignity Health, will continue to be listed in the Official Catholic Directory. Official Catholic Directory pages for each of the hospitals is attached as Exhibit E. This further prevents any confusion on the public or Church's part about the Church authorizing direct sterilization procedures.

ii. Key Elements of Reorganization that are Designed to Preserve Dignity Health's Catholic Character and the Sponsoring Congregation's Control Over that Character.

(A) At least two Sisters from the Sponsoring Congregations must be on the Board, although, to distance the Church from direct sterilization procedures, they will "serve in an individual capacity and not as representative of a Sponsor." Bylaws § 7.2. The Executive Committee of the Board must include a "woman religious of a Sponsor." Bylaws § 10.2(a). At this time Sister Judy Carle is the Vice Chair of Dignity Health's Board and a

member of the Executive Committee of the Board.

(B) Dignity Health, "pursuant to the legacy of the Sponsors . . . is committed to continuing a healing ministry based on the life and works of Jesus in the provision of healthcare services to the communities it serves." Bylaws § 3.1. The mission of Dignity Health "is to deliver compassionate, high-quality, affordable care; serve and advocate for those sisters and brothers who are poor and disenfranchised; and partner with others in its communities to improve the quality of life." Bylaws § 3.2. This mission statement remains unchanged before and after the Reorganization. In carrying out the healing ministry, Dignity Health "shall at all times embrace the values of dignity, collaboration, justice, stewardship, and excellence." Bylaws § 3.2.[12] The Catholic sponsored health facilities in Dignity Health are required to follow

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[12] Healing in the spirit of Jesus and his life and teachings, with special regard for the poor, uninsured and disenfranchised and stewardship of limited resources are central tenets of Catholic health care. See 2009 Ethical & Religious Directives for Catholic Health Care, Part I "Social Responsibility of Catholic Health Care." Collaboration under guidance of the bishop is also a core Catholic principle. *Id.* General Introduction (p. 8).

the Ethical and Religious Directives for Catholic Health Care Services, while Dignity Health itself and the Community Hospitals are required to follow the Statement of Common Values. Bylaws § 3.3. The Statement of Common Values contains many of the important principles from the Ethical and Religious Directives for Catholic Health Care Services as well as fundamental elements of the teachings of the Roman Catholic Church (see Exhibit M for a detailed comparison).

(C) A Sponsorship Council composed of representatives from each of the Sponsoring Congregations has been established to oversee issues of Catholic identity with regard to the Catholic sponsored health facilities and to "inform the health ministry of Dignity Health on issues of mission integrity by representation on the Mission Integrity Committee." Bylaws Art. XII. The Sponsorship Council has veto power over any substantive changes to the Statement of Common Values. Bylaws Exhibit A, Governance Matrix, Action 1, which is attached as Exhibit B hereto. The Sponsorship Council must approve all of the following actions: any substantive change to application of the Ethical and

Religious Directives to Catholic sponsored facilities (Bylaws Exhibit A, Governance Matrix, Action 2); any amendment to the sponsorship provisions of the Bylaws (*Id.*, Action 14); closure of a Catholic sponsored health facility (*Id.*, Action 20); change of the name of a Catholic sponsored health facility (*Id.*, Action 21). The Sponsorship Council Charter is attached hereto as Exhibit Q.

(D) The affected Sponsoring Congregations themselves must approve the following actions: sale, lease or disposition of a Catholic sponsored health facility, or the sale of substantially all of its assets (Bylaws Exhibit A, Governance Matrix, Actions 7 and 8); mortgage or encumbrance of a Catholic sponsored health facility (*Id.*, Action 9); acquisition or construction of a new Catholic sponsored health facility (*Id.*, Action 22); resignation as a Sponsor (*Id.*, Action 23); withdrawal of a Catholic sponsored health facility from the System (Id., Action 24); "alienation" of Catholic sponsored health facility that will remain within the System (*Id.*, Action 25).

(E) A Mission Integrity Committee has been established to provide advice and guidance to the Board

and Dignity Health's senior management concerning operation of the Corporation, its Catholic sponsored and community health facilities consistent with Dignity Health's healing ministry and mission. Bylaws § 10.3(f). The Mission Integrity Committee will have seven members, two of whom shall be Directors, with four to be appointed by the Board and three to be appointed by the Sponsorship Council. Bylaws § 10.3(f)(2). The Mission Integrity Committee is charged with monitoring compliance with the "mission and values of the healing ministry;" pastoral care and education programs; Ministry leadership formation programs that are designed to educate leaders about the healing ministry and the mission, culture and charism of the Sponsors and the Catholic Church; review and monitor Dignity Health's labor practices and pension administration, and make an annual mission integration report to the Board. Bylaws § 10.3(f)(4). Finally, the Mission Integrity Committee shall meet at least annually with senior management and Board representatives for the purpose of providing advice and guidance regarding the mission integrity matters within its purview.

Bylaws § 10.3(f)(5). The Mission Integrity Committee Charter is attached hereto as Exhibit S.

(F) The President/CEO of Dignity Health is prohibited from exercising his supervision and control over Dignity Health in a way that would "directly facilitate procedures that are contrary to Catholic teaching." Bylaws § 8.6(d).

(G) The Dignity Health Standards for Mission Integration preserve and provide for continuing application of Catholic health care principles and mission throughout the Dignity Health system. (Standards for Mission Integration, Exhibit P and Mission Vision and Values are attached hereto as Exhibit R.)

(H) The appointment of members to the Retirement Plans Committee that acts as the Plan administrator for all retirement plans maintained by Dignity Health will henceforth be subject to approval by the three members of the Mission Integrity Committee who are appointed by the Sponsorship Council. The Retirement Plans Committee will continue to carry out its administrative duties in a manner that is mindful of and consistent with Dignity Health's philosophy and mission and the teachings and tenets of the Roman

Catholic Church and the Sponsoring Congregations. The principal purpose and function of the Retirement Plans Committee is the administration of the Plan, and other retirement plans maintained by Dignity Health. The Retirement Plans Committee will formally function as a subcommittee of the Dignity Health Board's Human Resources and Compensation Committee, but the appointment of its members will, as noted, be subject to approval by the three members of the Mission Integrity Committee who are appointed by the Sponsorship Council, and at least one member of the Retirement Plans Committee will also be a member of the Mission Integrity Committee who is appointed by the Sponsorship Council and such member will be responsible for reporting to the Mission Integrity Committee on the work and other developments of the Retirement Plans Committee so that the Mission Integrity Committee can assure that the retirement plans are being administered with the teachings and tenets of the Roman Catholic Church and of the Sponsoring Congregations in mind.

(I) A crucifix and pictures of the Pope and Archbishop Niederauer still

> hang in Dignity Health's corporate board room lobby and a quote from Isaiah 43:2&4 hangs in the Dignity Health corporate office lobby. Eighty six men and women religious are still directed by their Orders to provide services to Dignity Health and its various facilities to help it fulfill its healing mission. There is even one Sister who is assigned to the Dignity Health's corporate offices to monitor Dignity Health's investments and community assistance program to make sure that Dignity Health's assets are invested in a way that is consistent with Catholic teachings such as social justice, equality and stewardship. On a day to day level, then, the Catholic connection and direction at Dignity Health continues.

5. The Establishment of the Catholic Healthcare West Pension Plan

Prior to the establishment of CHW, Sponsoring Congregations had established retirement plans for their respective hospitals' employees. After CHW was established, the retirement plans that had been established by the individual Sponsoring Congregations and their hospitals were merged to form the CHW Retirement Plan in 1989.[13] The IRS issued a letter ruling in late 1993 opining that the CHW

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[13] The name was subsequently changed to "CHW Pension Plan."

Pension Plan (the "Plan") is a "church plan" within the meaning of Code Section 414(e). PLR 9409042 (Dec. 8, 1993).[14] No election to be covered by ERISA has been made for the Plan under Code Section 410(d). As CHW expanded, the following prior entity plans were merged into the Plan with their prior benefit formulae preserved as special Plan appendices:

1. SCH Cash Balance Plan, in 1996 (old benefits formulae preserved in Appendix E);
2. The St. Joseph Health System Retirement Income Plan, in 2004 (old benefits formula preserved in Appendix I);
3. Saint Francis Memorial Hospital Pension Plan for Administrative Employees, in 2000 (old benefits formula preserved in Appendix F);
4. UniHealth Pension Plan, in 2002 (old benefits formula preserved in Appendix G);
5. Dominican Hospital Retirement Plan, in 2004 (old benefits formula preserved in Appendix H);
6. St. Francis Medical Center of Santa Barbara Cash Balance Plan, in 2004 (old benefits formula preserved in Appendix L);
7. Saint Mary's Health Network Pension Plan, in 2007 (old benefits formula preserved in Appendix M); and

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[14] A copy of that letter ruling is attached hereto as Exhibit I.

8. Saint Francis Memorial Hospital Pension Plan for Non-Administrative Employees, in 2008 (old benefits formulae preserved in Appendix N).

All of these prior plans, except the UniHealth and Saint Francis Memorial Hospital plans were established by tax-exempt entities that were controlled by or associated with the Roman Catholic Church. UniHealth and Saint Francis Memorial Hospital were acquired by CHW in the 1990s and CHW obtained letter rulings from the IRS that the UniHealth and Saint Francis plans were church plans before these plans were merged into the CHW Retirement Plan. Copies of those letter rulings are attached hereto as Exhibits J and K, respectively.

6. Other Retirement Plans Included In This Ruling Request

The following retirement plans that were established by CHW and continue to be maintained by Dignity Health are also included in this ruling request.

a. Dignity Health Supplemental Defined Benefit Retirement Plan (Exhibit T). This is a supplemental defined benefit plan that was established in 2008.

b. Dignity Health Savings Plan (Exhibit U). This is a 403(b) plan that was established in 1992.

c. SEIU Retiree Health 403(b) Plan (Exhibit V). This is a 403(b) plan that was established for certain bargaining unit employees in 2007.

d. Dignity Health Supplemental Retirement Plan 401(a) (Exhibit W). This is a frozen defined contribution plan that was established in 1992 and frozen to new contributions on August 1, 2011.

e. Dignity Health 457(b) Plan (Exhibit X). This is a 457(b) plan that was established in 2002 for a select group of management and highly compensated employees.

C. RULING REQUESTED

Based upon the above facts, the undersigned requests a ruling that the Dignity Health Pension Plan and other retirement plan ("Plans") mentioned herein continue to be "church plans" within the meaning of Code Section 414(e).

D. STATEMENT OF LAW

1. Statutory Authority

Internal Revenue Code (the "Code") Section 414(e)(1) defines a "church plan" as a plan established and maintained by a church or by a convention of association of churches which is exempt from taxation under Code Section 501 for the benefit of its employees (or their beneficiaries).

Code Section 414(e)(3)(A) provides that a plan established and maintained for its employees (or their beneficiaries) by a church or a convention or association of churches includes a plan maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a

convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

Code Section 414(e)(3)(B) defines "employee" to include a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry, regardless of the source of his or her compensation, and an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under Code Section 501, and which is controlled by or associated with a church or a convention or association of churches.

Code Section 414(e)(3)(B) provides that a church or a convention or association of churches which is exempt from tax under Code Section 501 shall be deemed the employer of any individual included as an employee under Code Section 414(e)(3)(B).

Code Section 414(e)(3)(D) provides that an organization, whether a civil law corporation or otherwise, is associated with a church or a convention or association of churches if it shares common religious bonds and convictions with that church or convention of churches.

In order for an organization to have a qualified church plan, it must establish that its employees are employees or deemed employees of the church or convention or association of churches under Code Section 414(e)(3)(B) by virtue of the organization's being controlled by or associated with the church or convention or association of churches and that the plan will be administered by an organization of the type described in Code Section 414(e)(3)(A).

2. IRS Rulings

In its rulings, the IRS has not articulated a specific standard for determining when an entity shares common religious bonds and convictions with a church, rather they have used a "facts and circumstances" approach.

In PLR 200025061 (March 28, 2000), the IRS ruled that a tax exempt University was "associated with" a church where the University was listed in the church's official directory, 32 of its 35 board members were members of the church and the University was founded by a congregation of the church for the purpose of promoting and disseminating higher education in a manner that complies with the church's core values and teachings.

In PLR 200514025 (January 10, 2005), the IRS ruled that a direct care developmental disability services provider was "associated with" a church where: i) the entity's Bylaws required that at least the majority of its Board of Directors had to be members of the church and that bylaw provision could not be amended without the church's consent; ii) the entity's corporate articles stated that the entity was intended to be affiliated with the church; iii) upon dissolution, the entity's assets were to be given to social ministry organizations affiliated with the church; and iv) the entity was listed as a social ministry and "recognized" service organization of the church that shares in the mission, ministry and stewardship of the church.

In PLR 200829032 (July 18, 2008), the IRS ruled that a community foundation and a variety of communal agencies in "City M" which "is a large metropolitan area in state W," were associated with seven (7) area churches of "Religion D" because the IRS concluded

that the foundation and communal agencies all shared common religious bonds with the churches. The IRS reached the conclusion because even though these organizations were all "diverse philosophically and in matters of religious observance", they all operated programs "intended to provide communal, cultural, and religious support for individuals professing Religion D in City M." In the aggregate, the communal agencies and the churches served to ". . . further Religion D's teachings, tenets and principles of righteousness, charity and social justice by . . . [i] formation of a Religion D system of communal social service, cultural and educational agencies [ii] soliciting, collecting, allocating and distributing funds received . . . [iii] identification, recruitment, education, and the motivation of Religion D adherents who will be willing to serve in leadership positions in City M's Religion D community . . . [iv] strengthening of Religion D churches within the community . . . [v] dissemination of information of interest to practitioners of Religion D in City M, in particular, news about community events and religious education . . . [vi] support and assistance for efforts at improving social, economic, and cultural well-being of Religion D adherence in City M . . . ." The community foundation was said to "adhere to Religion D religious doctrine and also required that all members be Religion D members." The Foundation placed "extensive reliance on Religion D clergy guidance in all facets of its operation . . . [spent] its resources and provide[d] programming that is in accordance with Religion D law and served as a financial fundraiser for the churches in accordance with Religion D law." The Foundation "also received assistance from Religion D institutions, including substantial spiritual assistance from clergy of the churches." The churches and their

clergy "generally [were] strong supporters of the communal agencies." "The vast majority of current members of the Board of Directors of the communal agencies [were] actively affiliated with Religion D in a City M church. In addition, more than half of the communal agencies [had] one (1) or more members of Religion D clergy occupying staff positions." "The communal agencies and the churches sponsored numerous joint programs throughout the year. Those programs emphasized the common aims of Religion D, such as promotion of religious education, outreach to co-religionists who currently are not affiliated with a City M church, and strengthening of community programs to insure that future generations are committed to Religion D."

These IRS rulings appear to look for involvement by the church in the entity's governance and operations as well as an acknowledgment by the entity and perhaps also the church of some sort of a connection or common purpose and bond between the entity and the church.

3. Court Rulings

Only a handful of court decisions have addressed the "associated with" standard. The two leading cases dealt with Baptist hospitals in Arkansas and South Carolina, respectively, and are relevant here because they involved hospital systems that were previously affiliated with a church. The first, *Lown v. Continental_Casualty Company*, 238 F.3d 543 (4th Cir. 2001), involved a dispute over LTD insurance, with Ms. Lown arguing that the LTD plan maintained by Baptist Healthcare of South Carolina was a church plan, while the LTD carrier argued that the plan was subject to ERISA. Until 1993, Baptist Healthcare was affiliated with the South Carolina Baptist Convention, a group

of state Baptist churches. However, in that year, the Board of Baptist Healthcare voted to remove itself as an agency of the South Carolina Baptist Convention. After 1993, Baptist Healthcare did not receive any funding from either the Southern Baptist Convention or the South Carolina Baptist Convention. Baptist Healthcare served individuals of all faiths and creeds. No denomination requirement existed for either Chaplains or Ministerial counselors at Baptist Healthcare. Baptist Healthcare complied with ERISA reporting requirements regarding their LTD plan. Baptist Healthcare employees were covered under a retirement plan established and maintained by the Annuity Board of the Southern Baptist Convention and it was maintained as a church plan.[15] The Court ruled that, in deciding whether an entity shares "common religious bonds and convictions" with the church, three factors bear primary consideration: (1) whether the religious institution played any official role in the governance of the organization; (2) whether the organization receives assistance from the religious institution; and (3) whether a denominational requirement exists for any employee or patient/customer of the organization. The court found that Baptist Healthcare did not meet any of these criteria. (1) The Southern Baptist Convention did not appoint any of Baptist Healthcare's Board members, played no role in Baptist Healthcare's government, and was not even consulted by Baptist Healthcare on any matter. (2) Baptist Healthcare did not receive any financial assistance from the Southern Baptist Convention.

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[15] Because it was not germane to the decision, the court did not comment on the implications of its ultimate conclusion on the ability of Baptist Healthcare employees to continue participating in the Southern Baptist Convention's Retirement Plan.

(3) No denominational requirement existed for anybody affiliated with Baptist Healthcare, patients, doctors, nurses and other employees. Regarding the fact that Baptist Healthcare employees participated in the Southern Baptist Convention Pension Plan, the court noted that Baptist Healthcare's Vice President of Human Resources testified that this was a "purely business relationship". Finally, the court stated that although Baptist Healthcare retained the name "*Baptist*," "*. . . the name is the not the thing.*". Thus, the court concluded that Baptist Healthcare did not share "common religious bonds and convictions" and was, therefore, not "associated with" the Baptist Church.

The second Baptist Hospital case involved Baptist Health in Arkansas, and although it appeared to present a closer case, the Eighth Circuit Court of Appeals also ruled that Baptist Health was not "associated with" the Baptist Church. *Chronmister v. Baptist Health, Unum Life Insurance Company of America*, 442 F.3d 648 (8th Cir. 2006). Ms. Chronmister wanted LTD benefits and urged the court to use Arkansas state insurance law because she argued that the Baptist Health LTD plan was a church plan. *Unum,* Baptist Health's LTD carrier, on the other hand, maintained that the plan was governed by ERISA. The parties acknowledged that Baptist Health was not controlled by the Baptist Church so the court set out to determine whether Baptist Healthcare shared "common religious bonds and convictions" with the Baptist Church. Baptist Health had originally been founded as a Baptist hospital and, until 1966, had been controlled by the Arkansas Baptist State Convention. In 1966, Baptist Health severed its ties with the Arkansas Baptist State Convention. Nevertheless, Baptist Health required its CEO, its Board of Director members and its chaplains to be members of Baptist

churches. Baptist Health's management was instructed to follow religious principles and *Chronmister* pointed out that operating a facility for health care is part of the healing ministry of the Baptist Church. Moreover, if Baptist principles and secular medicine conflicted at Baptist Health, Baptist principles controlled; for example, elective abortions could not ever be performed at Baptist Health and clinical abortions required the unanimous consent of two physicians and one Baptist Chaplain. The CEO stated that "Baptist" is much more than a title and that Baptist Health is a "Christian organization" that operates a 'healing ministry' where all management employees are expected to be "spiritual leaders as determined by Christian principles". Baptist Health required all management employees to attend a seminar entitled "*Spiritual Dimensions of Leadership*". Although lower level managers were not required to be Baptists, they *were* required to "listen and adhere to the Baptist precepts" in their management of Baptist Health employees. Finally, Baptist Health received financial support from the Baptist Health Foundation, although the Foundation was made up of "a number of local business people with no requirement of any affiliation with the Baptist faith". The court applied these facts to the three-part test articulated by the Fourth Circuit in *Lown* and concluded that Baptist Health did not "share common religious bond and convictions" with the Baptist Church: (1) The Arkansas Baptist State Convention played no role in the governance of Baptist Health because it did not appoint or approve any of Baptist Health's Board members, and Baptist Health did not consult with it on any matter. Also, the court noted that because Baptist churches are not hierarchically governed, ". . . it would be inaccurate to ascribe

Baptist Health's generally religious outlook to a specific Baptist Church or association of Baptist churches given their disaffiliation with the Arkansas Baptist State Convention." (2) Baptist Health did not receive any financial support from the Arkansas Baptist State Convention; the court did not view the support that came from the Baptist Health Foundation as coming from the Baptist Church, because of that organization's lack of denominational requirement for its members. (3) Baptist Health's denominational requirement was limited to certain employees, and although management employees were instructed to be guided by "Christian principles" they were not directed to be guided by specific doctrines of the Baptist Church. Finally, Baptist Health treated patients of all religions or faiths. Therefore, the court concluded that Baptist Health's LTD plan was not a church plan and was covered by ERISA.

A third case involved *Catholic Charities of Portland, Maine*. The court concluded that Catholic Charities was *"associated with"* the Roman Catholic Church because Catholic Charities' governing documents stated that it provided services "based on Roman Catholic religious teaching that calls on Catholics to serve those in need" and considered "its work a vital part of the ministry of the Roman Catholic Church to the people of the State of Maine." *Catholic Charities of Main, Inc. v. _City of Portland* (D. Maine 2004), 304 F. Supp. 2d 77, 85. In addition, the governing documents included a Mission Statement which declared that Catholic Charities is *"an organization of the dioceses of Portland that implements the social teachings of Jesus Christ as taught by the Roman Catholic Church."* Also, the dioceses of Portland provided financial assistance to Catholic Charities on an annual basis. The Bishop of Portland was the President of Catholic Charities,

and required by governing documents to be so, and the President had the power to appoint the entire Board of Directors of Catholic Charities. Moreover, Catholic Charities could not sell any of its property or assets without the Bishop's approval. However, Catholic Charities did not require that either its employees or aid recipients be Catholic. The court concluded that Catholic Charities was *"associated with"* the church and, the court decided that it did not need to investigate whether Catholic Charities was also controlled by the church. The Catholic Charities case, suggests that the three *Lown* factors are not of equal weight and indeed do not all need to be present in order for an entity to share common religious bonds.[16]

Based on the above court cases it appears that the most important factor is the existence and scope of the church's "official role" in the entity's governance. As noted, the IRS, in its opinions, has not adopted the *Lown* factors, but uses a facts and circumstances approach that seems to focus on the church's role in the organization entity's governance and operations and the mutual acknowledgment of common religious bonds between the entity and the church.

E. ANALYSIS

The requirements for the Plans to be church plans are as follows: (1) The Plans must be administered by an entity whose principal purpose or function is the administration of the Plans, and such entity must be controlled by or associated with a church. (2) The employees covered under the Plans must be employed

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[16] It should be noted that Catholic Charities appeared to have been controlled by the Church through the Bishop's role, but as noted, the court chose not to reach that issue.

by a 501(c)(3) entity that is controlled by or associated with the Church.

1. The Retirement Plans Committee

The Dignity Health Retirement Plans Committee's principal purpose or function is to act as administrator of the Plans. The Retirement Plans Committee is controlled by or associated with the Church because the appointment of its members are subject to approval by the three members of the Mission Integrity Committee who are appointed by the Sponsoring Congregations through the Sponsorship Council and at least one member of the Retirement Plans Committee must be a member of the Mission Integrity Committee who was appointed by the Sponsorship Council. The Retirement Plans Committee also shares common religious bonds with the Church because it is required to be mindful of the teachings and tenets of the Roman Catholic Church and the Sponsoring Congregations when carrying out its plan administration responsibilities. The first requirement is satisfied here.

2. Dignity Health Shares Common Religious Bonds with the Church

Dignity Health is a non-profit corporation that is exempt from tax under Code Section 501(c)(3). Therefore, its employees, and those of its tax exempt subsidiaries, who participate in the Plans are "church employees" if Dignity Health shares common religious bonds with the Church. When the above authority is applied here, we believe that Dignity Health is an entity that shares common religious bonds and is "associated with" the Roman Catholic Church. Taking the number one factor from both the IRS's rulings and the court cases, there is clearly an official role for the

Sponsoring Congregations in Dignity Health's governance:

1. All Catholic-sponsored hospitals of Dignity Health (25 out of 40) are required to follow the Ethical and Religious Directives for Catholic Health Care Services.

2. All Catholic-sponsored hospitals of Dignity Health are listed in the Official Catholic Directory.

3. The 15 community hospitals of Dignity Health are required to follow a Statement of Common Values which incorporates major portions of the ERD.

4. The requirement that community hospitals follow the Statement of Common Values and the content of the Statement of Common Values may not be changed over the objection of the Sponsoring Congregations.

5. Two women religious of the Sponsoring Congregations must always have a seat on the Board of Directors of Dignity Health and at least one Sister must be on the Board's Executive Committee.

6. The mission of Dignity Health is to perform a healing ministry based on the life and works of Jesus.

7. Dignity Health's compliance with its healing ministry and Statement of Common Values and ERD is monitored by a Mission Integrity Committee, three of whose seven members are appointed by the Sponsoring Congregations.

8. Eighty-six Catholic men and women religious continue to be assigned by their Orders to provide services at Dignity Health to help it fulfill its healing mission.

9. The CEO of Dignity Health is prohibited from exercising his authority in a way that would directly facilitate procedures that are contrary to Catholic teaching.

10. The Sponsoring Congregations must approve the sale or encumbrance of Catholic Sponsored hospitals.

11. Upon Dignity Health's dissolution all Catholic Sponsored hospital property must be returned to the Sponsoring Congregations.

When the above authority is applied, we believe that Dignity Health is an entity that shares common religious bonds and is "associated with" the Roman Catholic Church. Taking the number one factor from both the IRS's rulings and the court cases, there is clearly an official role for the Sponsoring Congregations in Dignity Health's governance. The second *Lown* factor, financial support from the Church, is not clearly present here. However, we do not believe that is a significant issue or factor here because the church has never provided much, if any, financial support to the Dignity Health hospitals. Rather, the hospitals have always fundraised from their local communities, and, in these efforts, the connection with the church and the Sponsoring Congregations and the hospitals' commitment to Catholic health care has always, and will continue to be, potent. The third *Lown* factor, denominational requirements for employees or patients, is also not present. Again, this is also not

especially relevant because the Dignity Health hospitals have never limited their patients or staff to Catholics, as that would be inconsistent with the principles of Catholic health care as described herein. As noted in connection with the Catholic Charities case, satisfaction of all three factors does not seem to be essential if there is a strong official role for the church in the entity's governance. Moreover, these factors have never been a strong feature of Catholic health care which has always been inclusive and which has depended on community support for the operations of its hospital's charitable mission. Based on all of these connections with the Catholic Church, and continuing involvement in the governance and mission of Dignity Health by the Catholic Church and its Sponsoring Congregations, we believe that Dignity Health shares common religious bonds with the Church, and is, therefore, *"associated with"* the Church within the meaning of Code Section 414(e)(3)(D).

In view of Dignity Health's association with the Roman Catholic Church through its Sponsoring Congregations, and its status as a Code Section 501(c)(3) entity, Dignity Health's employees meet the definition of church employees under Code Section 414(e)(3)(B)(ii). The second church plan factor is satisfied here.

F. CONCLUSION

For the foregoing reasons, the Plans have continued to be church plans within the meaning of Code Section 414(e) following the January 17, 2012 reorganization of CHW into Dignity Health.

G. PROCEDURAL MATTERS

1. Rev. Proc. 2012-4 Statements

a. Section 9.02(4) Statement Regarding Whether Same Issue is in an Earlier Return

To the best of the knowledge of Dignity Health and the undersigned, the same issue is not in an earlier return of Dignity Health or in an earlier return for any year of a related taxpayer within the meaning of Code Section 267, or of a member of an affiliated group of which the Taxpayer is also a member within the meaning of Code Section 1504 (collectively, a "Related Taxpayer").

b. Section 9.02(5) Statements Regarding Whether Same or Similar Issue was Previously Ruled on or Requested, or is Currently Pending

Except as previously discussed herein, to the best of the knowledge of Dignity Health and the undersigned, the Internal Revenue Service has not ruled on the same or similar issue for Dignity Health (or a Related Taxpayer) or a predecessor.

Neither the Taxpayer, a Related Taxpayer, a predecessor of the Taxpayer, nor a representative of the Taxpayer has submitted the same or similar issue included in the enclosed request.

c. Section 9.02(6) Statement of Supporting Authorities

Neither Dignity Health nor the undersigned are aware of any decision or ruling that has considered the

precise arrangement presented here.[17] However, the following authority supports a finding that a retirement plan covering the employees of a tax exempt entity that is associated with, but not controlled by, a church is a church plan within the meaning of Code Section 414(e); Code Sections 414(e)(3)(A); 414(e)(3)(B)(ii); 414(e)(3)(B)(ii); 414(e)(3)(D); Treas. Reg. Sections 1.414(e)-1(d)(2), 1.414(e)-1(e) [the term "church" includes religious Orders of the Church]; PLRs 2002506 [university "associated with" a church], 200514025 [developmental disability services provider was "associated with" a church]; 200829032 [community foundation in City M or State W and a variety of non-controlled communal agencies were found to be "associated with" a church].

d. Section 9.02(7) Statement of Contrary Authorities

As noted in the prior section, the Dignity Health arrangement is "unique", so there is really no directly applicable contrary authority. The following court decisions, which found that plans maintained by hospitals that were not controlled by a church were not church plans could arguably be characterized as contrary authority. *Lown v. Continental_Casualty Company*, 238 F.3d 543 (4th Cir. 2001) [Baptist Hospital in South Carolina was found to not be associated with the Baptist Church]; *Chronmister v. Baptist Health, Unum Life_Insurance Company of America,* 442 F.3d 648 (8th Cir. 2006) [Baptist Hospital in Arkansas was found to not be associated with the Baptist Church]. However, as noted in the text of this application, we

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[17] According to Martin Arrick, a managing director in S&P's Public Finance Ratings Group, Dignity Health's new governance structure is "unique." Modern Healthcare.com, "Business Conversion," January 28, 2012.

believe that Dignity Health's situation is factually distinguishable because the Catholic Church, through the Sponsoring Congregations, maintains a vastly more active, pervasive and official role in the operation of Dignity Health than the Baptist Church did over the hospitals in those two cases. Also, the Catholic Church, unlike the Baptist Church in the above cases, is a more hierarchical church with clearly defined uniform doctrines that are being followed by Dignity Health.

e. Section 9.03(5) Request for Conference Request

If the Service contemplates issuing an unfavorable ruling to Dignity Health, the undersigned requests a telephone conference on this issue.

f. Section 9.03(4) Request to Receive a Letter Ruling by Facsimile Transmission (Fax)

Dignity Health requests that a copy of the letter ruling be faxed to the undersigned.

g. Section 9.03(1) Request Separate Letter Rulings for Multiple Issues in a Single Situation

Not applicable.

h. Section 9.02(8) Statement Identifying Any Pending Legislation that May Affect the Proposed Transaction

Not applicable.

i. Appendix E(3) Representation That the Plans Are Either Qualified Under Section 401(a) of the Code or Meet the Requirements of Section 403(b) of the Code

The Dignity Health Pension Plan, Dignity Health Supplemental Defined Benefit Retirement Plan, and Dignity Health Supplemental Retirement Plan 401(a) are each qualified under Section 401(a) of the Code. The most recent determination letter for each plan is included with the Plan documents (Exhibits C, T, and W, respectively).

The Dignity Health Savings Plan and SEIU Retiree Health 403(b) Plan meet the requirements of Section 403(b) of the Code.

The Dignity Health 457(b) Deferred Compensation Plan meets the requirements of Section 457(b) of the Code.

j. Appendix E(4) Statement of Eligible Participants

Eligible participants of each of the Plans are employees of the entities listed in Appendix F who meet the eligibility requirements of each Plan.

k. Appendix E(5) Representation Regarding Employees of Unrelated Trade or Business

None of the Plans' eligible participants are or can be considered employed in connection with one or more unrelated trades or businesses within the meaning of Section 513 of the Code.

l. Appendix E(6) Representation Regarding Eligible Participants

Except for 173 employees of two for profit subsidiaries of Dignity Health, all eligible participants in the Plans are employees of Dignity Health or its tax-exempt subsidiaries. Only 173 employees of for-profit entities are eligible to participate in the Dignity Health Pension Plan and they constitute less than 1% (.003) of the approximately 50,000 employees who are eligible to participate in the Plan.

m. Appendix E(8) Composition of Committee

The current members of the Dignity Health Retirement Plans Committee are one member of the Board Mission Integrity Committee, one member of the Board Human Resources & Compensation Committee and the following additional members, Pablo Bravo (Mission and Community experience), Mary Connick (Finance experience), Terri LaBriola (Facility perspective and Human Resources experience), Darren Lee (Labor Relations experience), Alyssa Rieder (Treasury experience), Herbert Vallier (Chief Human Resources Officer) and Lisa Zuckerman (Treasury experience). The appointment of the Retirement Plans Committee members is subject to approval by the three members of the Mission Integrity Committee who are appointed by the Sponsoring Congregations through the Sponsorship Council and at least one member of the Retirement Plans Committee is a member of the Mission Integrity Committee who was appointed by the Sponsorship Council.

2. Administrative

a. Power of Attorney

An executed Form 2848 is enclosed.

b. Deletions Statement and Appendix B Checklist

The Deletions Statement and Appendix B Checklist are enclosed.

c. Required User Fee

A $10,000 check made payable to the U.S. Treasury is enclosed.

Date September 27, 2012

Very truly yours,

/s/ Samuel F. Hoffman
Samuel F. Hoffman
Designated Representative

SFH/SW Enclosures

cc w/encl: Derek Covert, Esq.

DECLARATION

Under penalties of perjury, I declare that I have examined this request, or this modification to the request, including accompanying documents, and, to the best of my knowledge and belief, the request or the modification contains all the relevant facts relating to the request, and such facts are true, correct, and complete.

DIGNITY HEALTH

By: /s/ Derek F. Covert
[Signature]

Title: Executive Vice President/General Counsel

Date: 18 Sept 2012

Derek F. Covert
Typed or printed name of person signing Declaration

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Case No: C-13-1450

STARLA ROLLINS on behalf of herself, individually, and on behalf of all others similarly situated,

Plaintiff,

v.

DIGNITY HEALTH, a California Non-profit Corporation, HERBERT J. VALLIER, an individual, the members of the Dignity Retirement Committee, and JOHN and JANE DOES, each an individual, 1-20,

Defendants.

CLASS ACTION COMPLAINT

TABLE OF CONTENTS

I. INTRODUCTION 1

II. JURISDICTION AND VENUE 5

III. PARTIES 6

IV. THE BACKGROUND OF THE CHURCH PLAN EXEMPTION 8

A. The Adoption of ERISA 8

B. The Scope of the Church Plan Exemption in 1974 9

C. The Changes to the Church Plan Exemption in 1980 9

V. DIGNITY 13

A. Dignity's Operations 13

B. Dignity's Pension Plans 17

1. Dignity's Plans Meet the Definition of an ERISA Defined Benefit Plan 17

2. The Sponsor and Fiduciaries of the Dignity Plans 18

3. The Dignity Pension Plans Do Not Disclose Information About The Dignity Plans or the Benefits available to Participants under the Plans 20

4. The Dignity Plans Are Not Church Plans 20

(a) Only Two Types of Plans May Qualify as Church Plans and The Dignity Plans are Neither ... 20

(b) Even *if* the Dignity Plans Could Otherwise Qualify as Church Plans under ERISA Section 3(33)(A), They are Excluded From Church Plan Status under ERISA Section 3(33)(B)(ii)..... 27

(c) Even *if* the Dignity Plans Could Otherwise Qualify as Church Plans under ERISA, the Church Plan Exemption, as Claimed By Dignity, Violates the Establishment Clause of the First Amendment of the Constitution, and Is Therefore Void and Ineffective..... 27

VI. CLASS ALLEGATIONS..... 28

A. Numerosity 28

B. Commonality..... 29

C. Typicality 29

D. Adequacy..... 30

E. Rule 23(b)(1) Requirements. 30

F. Rule 23(b)(2) Requirements. 30

G. Rule 23(b)(3) Requirements. 31

VII. CAUSES OF ACTION 32

CCUNT I 32

(Claim for Equitable Relief Pursuant to ERISA Section 502(a)(3) Against Defendant Dignity)..... 32

COUNT II..... 33

(Claim for Violation of Reporting and Disclosure Provisions Against Defendant Dignity and/or the members of the Dignity Retirement Committee)... 33

COUNT III 36

(Claim for Failure to Provide Minimum Funding Against Defendant Dignity).. 36

COUNT IV..... 37

(Claim for Failure to Establish the Plans Pursuant to a Written Instrument Meeting the Requirements of ERISA Section 402 Against Defendant Dignity)..... 37

COUNT V 37

(Claim for Failure to Establish a Trust Meeting the Requirements of ERISA Section 403 Against Defendant Dignity) 37

COUNT VI..... 38

(Claim for Civil Money Penalty Pursuant to ERISA Section 502(a)(1)(A) Against Defendant Dignity and/or the members of the Dignity Retirement Committee)..... 38

Count VII 39

(Claim for Breach of Fiduciary Duty Against All Defendants) 39

Count VIII..... 42

(Claim for Declaratory Relief That the Church Plan Exemption, as Claimed Dignity, Violates the Establishment Clause of the First Amendment of the Constitution, and Is Therefore Void and Ineffective)..... 42

VIII. PRAYER FOR RELIEF .....

Plaintiff Starla Rollins, individually and on behalf of all those similarly situated, as well as on behalf of the Dignity Plans, as defined herein, by and through her attorneys, hereby alleges as follows:

I. INTRODUCTION

1. Plaintiff agrees that Defendant Dignity Health ("Dignity" or "Defendant"), operates a health care conglomerate in California, Arizona and Nevada and ancillary care facilities in sixteen states and provides good healthcare services in the communities it serves. That is not what this case is about. Instead, this case is about whether Dignity properly maintains its pension plans under The Employee Retirement Income Security Act ("ERISA"). As demonstrated herein, Dignity fails to do so, to the detriment of its 60,000 employees who deserve better.

2. As its name implies, ERISA was crafted to protect employee retirement funds. A recent comprehensive history of ERISA put it this way:

> Employees should not participate in a pension plan for many years only to lose their pension . . . because their plan did not have the funds to meet its obligations. The major reforms in ERISA—fiduciary standards of conduct, minimum vesting and funding standards, and a government-run insurance

> program—aimed to ensure that long-service employees actually received the benefits their retirement plan promised.

James Wooten, THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, at 3 (U. Cal. 2004).

3. This class action is brought on behalf of participants and beneficiaries of defined benefit pension plans maintained by Dignity and operated as or claimed to be "Church Plans" under ERISA (collectively referred to as the "Dignity Plans" or simply the "Plans"). Dignity is violating numerous provisions of ERISA—including underfunding the Dignity Plans by over $1.2 billion—while erroneously claiming that the Plans are exempt from ERISA's protections because they are "Church Plans." But none of the Dignity Plans meet the definition of a Church Plan because Dignity plainly is not a church or a convention or association of churches and because the Dignity Plans were not established by a church or a convention or association of churches. That should be the end of the inquiry under ERISA, resulting in a clear finding that the Dignity Plans are not Church Plans.

4. Even if, however, these facts were different, and the Dignity Plans could otherwise qualify for Church Plan status, they would be specifically excluded from such status because substantially all of the participants in the Plans are *not* employed by either the Catholic Church or an organization that is controlled by or associated with the Catholic Church, within the meaning of ERISA. Dignity is not controlled by the Catholic Church and, despite its name, is not "associated with" the Catholic Church within the meaning of ERISA because it does not share common religious bonds and convictions with the Catholic Church.

5. A sampling of facts reveals Dignity as a non-profit health care network, not unlike other non-profit health care networks. It is not owned or operated by the Catholic Church and does not receive funding from the Catholic Church. It is long since removed from the days when nuns once ran the hospitals, spread their gospel, and faithfully stewarded retirement assets for their employees. Dignity deliberately chooses to distance itself from, or even abrogate, many religious convictions of the Catholic Church, when it is in its economic interest to do so, such as when it hires employees, performs or authorizes medical procedures forbidden by the Catholic Church, and encourages divergent and contrary spiritual support to its clients.

A. Employees. With respect to recruiting and hiring its employees—those who then become Dignity Plan participants— Dignity informs prospective employees that Catholic faith is not a factor in the hiring process. Like many employers, Dignity promotes itself by insisting that it hires regardless of whether there are any common religious convictions. In other words, Dignity recruits retirement plan participants, in part, by assuring them that their religiosity, or absence thereof, is not relevant. Moreover, many of Dignity's employees became employees of Dignity as a result of Dignity's acquisition of hospitals and healthcare facilities that do not purport, and have never purported, to adhere to the moral and doctrinal teaching of the Catholic Church and that Dignity continues to operate in such fashion.

B. Medical Procedures. Hospitals and medical care facilities inside of Dignity's system also perform elective, contraceptive sterilization procedures on patients despite the fact that the Catholic Church officially denounces such procedures as intrinsically

immoral, evil, and illegal. Dignity has also entered into a partnership through which it facilitates the performance of contraceptive services, female sterilizations, and male sterilizations, which are procedures forbidden by the Catholic Church.

C. Spiritual Guidance. With respect to its offering of spiritual support to its clients/patients, Dignity specifically chooses not to promote the Catholic faith. Dignity does not just remain neutral on this issue and allow patients to do as they please with respect to their religiosity, or lack thereof. Instead, Dignity provides non-denominational worship space (as many airports do) and offers its patients contact with priests, ministers, rabbis or spiritual advisors for guidance. It is axiomatic that these individuals, with whom Dignity offers contact—including the protestant ministers, Jewish rabbis and spiritual advisors—have religious convictions that the Catholic Church views as clear error.

D. Growth Model. Over the years the Dignity network has grown, in large part, through the acquisition of hospitals and ancillary care facilities that had no claimed ties to religion. Indeed, Dignity's current growth model specifically targets the acquisition of additional healthcare facilities that have no claimed ties to religion. These facilities do not purport, and have never purported, to adhere to the moral and doctrinal teaching of the Catholic Church, and Dignity continues to operate these facilities in such fashion.

6. In short, Dignity operates in most respects like other non-profit hospitals and health care conglomerates. Dignity expressly chooses not to prioritize the convictions of the Catholic Church (i) when it hires its employees—and Dignity Plan participants; (ii) when it performs or authorizes medical procedures forbidden

by the Catholic Church; (iii) when it provides support for the spiritual needs of patients regardless of religious preference; and (iv) when it pursues a growth model that emphasizes the acquisition of additional facilities that do not purport, and have never purported, to adhere to the moral and doctrinal teaching of the Catholic Church and when Dignity continues to operate these facilities in such fashion.

7. Whether Dignity makes these choices without forethought, or whether it makes them deliberately to satisfy large non-Catholic donors, its employees, its clients/patients, the spiritual community, the secular community, and/or its management, is unknown.

8. On the other side of the scale is Dignity's attempt to claim "Church Plan" status for the Dignity Plans—it wants to maintain and impose a religious status not on its employees, or in any of the areas detailed above, but instead on the *retirement dollars* of its employees. Dignity imposes religion on those retirement dollars because in doing so, according to Dignity, it may underfund the Dignity Plans by over $1.2 billion and be excused from the necessary protections that ERISA provides. Fortunately, as set forth below, ERISA does not allow non-Church entities to selectively impose religious status to shirk their responsibility to protect the retirement dollars of their employees.

9. And, even if the Dignity Plans could clear all the ERISA Church Plan hurdles, the Church Plan exemption, as claimed by Dignity, is an unconstitutional accommodation under the Establishment Clause of the First Amendment, and is therefore void and ineffective. It harms Dignity employees, unfairly disadvantages Dignity competitors, and accommodates no undue burden caused by ERISA on any Dignity religious practices.

10. It is worth noting in this Summary that this case is not akin to the disputes concerning mandatory contraceptive coverage by religious institutions. ERISA does not require retirement plans to afford protections to employees that may be contrary to religious doctrine.

11. Dignity's claim of Church Plan status for its defined benefit pension plan fails under both ERISA and the First Amendment. That is what this case is about.

12. Plaintiff seeks an Order requiring Dignity to comply with ERISA and afford the lass all the protections of ERISA with respect to the Dignity Plans, as well as an Order finding that the Church Plan exemption, as claimed by Dignity, is unconstitutional because it violates the Establishment Clause of the First Amendment.

II. JURISDICTION AND VENUE

13. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 because his is a civil action arising under the laws of the United States and pursuant to 29 U.S.C. § 132(e)(1), which provides for federal jurisdiction of actions brought under Title I of ERISA.

14. This Court has personal jurisdiction over Defendant Dignity because Dignity is headquartered and transacts business in, and has significant contacts with, this District, and because ERISA provides for nationwide service of process. ERISA § 502(e)(2), 29 U.S.C. § 1132(e)(2).

15. This Court has personal jurisdiction over Defendant Herb J. Vanier because, upon information and belief, he is an Officer of Dignity and works in its

San Francisco headquarters, and because ERISA provides for nationwide service of process. *Id.*

16. Venue is proper in this district pursuant to ERISA § 502(e)(2), 29 U.S.C. § 1132(e)(2), because (a) the Plans are administered in this District, (b) some or all of the violations of ERISA took place in this District, and/or (c) Dignity may be found in this District.

17. Venue is also proper in this District pursuant to 28 U.S.C. § 1391 because Dignity is headquartered in this District, and systematically and continuously does business in this District, and because a substantial part of the events or omissions giving rise to the claims asserted herein occurred within this District.

III. PARTIES

18. Plaintiff. Plaintiff Starla Rollins was employed by Dignity as the MCH Billing Coordinator at San Bernardino Community Hospital in San Bernardino, California from 1986 until 2012. Plaintiff Rollin is a participant in a pension plan maintained by Dignity because she is or will become eligible for pension benefits under the Plan to be paid at normal retirement age. Additionally and alternatively, Plaintiff has a colorable claim to benefits under a pension plan maintained by Dignity and is a participant within the meaning of ERISA section 3(7), 29 U.S.C. § 1002(7), and is therefore entitled to maintain an action with respect to the Dignity Plans pursuant to ERISA sections 502(a)(1)(A) and (B), (a)(2), (a)(3), and (c)(1) and (3), 29 U.S.C. § 1132(a)(1)(A) and (B), (a)(2), (a)(3), and (c)(1) and (3).

19. Defendant Dignity. Dignity is a 501(c)(3) nonprofit corporation organized under, and governed by, the California Corporations Code, including Division 2

thereof, the California Nonprofit Corporation Law, and is headquartered in San Francisco, California. Dignity is the employer responsible for maintaining the Dignity Plans and is, therefore, the plan sponsor of the Dignity Plans within the meaning of ERISA section 3(16)(B), 29 U.S.C. § 1002(16)(B).

20. Defendant Herb J. Vallier. Defendant Vallier is Executive Vice President and Chief Human Resources Officer for Dignity, and he has held that position since at least 2010. In 2010 Defendant Vallier received total compensation in excess of $580,000. Upon information and belief, Defendant Vallier's job responsibilities include fiduciary oversight of the Dignity Plans, and Defendant Vanier is a fiduciary of the Plans within the meaning of ERISA.

21. Defendant members of the Dignity Retirement Committee. The members of the Dignity Retirement Committee are, on information and belief, persons specifically designated by Dignity to serve as the Administrator for some or all of the Dignity Pension Plans and therefore are the Administrators of some or all of the Dignity Pension Plans within the meaning of ERISA section 3(16)(A)(i), 29 U.S.C. § 1002(16)(A)(i). Defendants John and Jane Does 1-20 are individuals who through discovery are found to be members of the Dignity Retirement Committee. These individuals will be added by name as defendants in this action upon motion by Plaintiff at an appropriate time.

22. Defendants John and Jane Does 21-40. Defendants John and Jane Does 21-40 are individuals who through discovery are found to have fiduciary responsibilities with respect to the Dignity Plans and are fiduciaries within the meaning of ERISA. These individuals will be added by name as defendants in this action upon motion by Plaintiff at an appropriate

time. Defendant Vallier, the members of the Dignity Retirement Committee, and John and Jane Does 21-40 are referred to herein collectively as the "Individual Defendants."

IV. THE BACKGROUND OF THE CHURCH PLAN EXEMPTION

A. The Adoption of ERISA

23. Following years of study and debate, and broad bipartisan support, the Congress adopted ERISA in 1974, and the statute was signed into law by President Ford on Labor Day of that year. Among the factors that led to the enactment of ERISA were the widely publicized failures of certain defined benefit pension plans, especially the plan for employees of Studebaker Corporation, an automobile manufacturing company which defaulted on its pension obligations in 1965. *See generally* John Langbein *et al.*, PENSION AND EMPLOYEE BENEFIT LAW 78-83 (2010) ("The Studebaker Incident").

24. As originally adopted in 1974, and today, ERISA protects the retirement savings of pension plan participants in a variety of ways. As to participants in traditional defined benefit pension plans, such as the plans at issue here, ERISA mandates, among other things, that such plans be currently funded and actuarially sound, that participants' accruing benefits vest pursuant to certain defined schedules, that the administrators of the plan report certain information to participants and to government regulators, that the fiduciary duties of prudence, diversification, loyalty, and so on apply to those who manage the plans, and that the benefits promised by the plans be guaranteed, up to certain limits, by the Pension Benefit Guaranty Corporation. *See, e.g.*, ERISA §§ 303, 203, 101-106,

404-406, 409, 4007, 4022, 29 U.S.C. §§ 1083, 1053, 1021-1026, 1104-1106, 1109, 1307, 1322.

25. ERISA is centered on pension plans, and particularly defined benefit pension plans, as is reflected in the very title of the Act, which addresses "retirement income security." However, ERISA also subjects to federal regulation defined contribution pension plans (such as 401(k) plans) and welfare plans, which provide health care, disability, severance and related non-retirement benefits. ERISA § 3(34) and (1), 29 U.S.C. § 1002(34) and (1).

B. The Scope of the Church Plan Exemption in 1974

26. As adopted in 1974, ERISA provided an exemption for certain plans, in particular governmental plans and Church Plans. Plans that met the statutory definitions were exempt from all of ERISA substantive protections for participants. ERISA § 4(a) and (b), 29 U.S.C. § 1003(a) and (b).

27. ERISA defined a Church Plan as a plan "established and maintained for its employees by a church or by a convention or associations of churches."[1]

28. Under the 1974 legislation, although a Church Plan was required to be established and maintained by a church, it could also include employees of certain pre-existing agencies of such church, but only until 1982. ERISA § 3(33)(C) (1974), 29 U.S.C. § 1002(33)(C) (1974) (current version as amended at 29 U.S.C.

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[1] ERISA § 3(33)(A), 29 U.S.C. § 1002(33)(A). ERISA is codified in both the labor and tax provisions of the United States Code, titles 29 and 26 respectively. Many ERISA provisions appear in both titles. For example, the essentially identical definition of Church Plan in the Internal Revenue Code is found at 26 U.S.C. § 414(e).

§ 1002(33) (West 2013)). Thus, under the 1974 legislation, a pension plan that was not established and maintained by a church could not be a Church Plan. *Id.*

C. The Changes to the Church Plan Exemption in 1980

29. Church groups had two major concerns about the definition of "Church Plans" in ERISA as adopted in 1974. The first, and far more important, concern was that Church Plans after 1982 could not include the lay employees of agencies of the Church. The second concern that arose in the church community after 1974 was more technical. Under the 1974 statute, all Church Plans, single-employer or multiemployer, had to be "established and maintained" by a church or a convention/association of churches. This ignored the role of the churches' financial services organizations in the day-to-day management of the pension plans. In other words, although Church Plans were "established" by a church, in practice they were often "maintained" by a separate financial services organization of the church, usually incorporated and typically called a church "pension board."

30. These two concerns ultimately were addressed when ERISA was amended in 1980 in various respects, including a change in the definition of "Church Plan." Multiemployer Pension Plan Amendments Act of 1980 ("MPPAA"), P.L. 96-364. The amended definition is current law.

31. As to the first concern (regarding employees of agencies of a church), Congress included a new definition of "employee" in subsection (C)(ii)(II) of section 3(33) of ERISA. 29 U.S.C. § 1002(33)(C)(ii)(II) (1980) (current version at 29 U.S.C. § 1002(33)(C)(ii)(II)

(West 2013)). As amended, an "employee" of a church or a convention/association of churches includes an employee of an organization "which is controlled by or associated with a church or a convention or association of churches." *Id.* The phrase "associated with" is then defined in ERISA section 3(33)(C)(iv) to include only those organizations that "share[] common religious bonds and convictions with that church or convention or association of churches." 29 U.S.C. § 1002(33)(C)(iv) (1980) (current version at 29 U.S.C. § 1002(33)(C)(iv) (West 2013)). Although the new definition of "employee" permitted a "Church Plan" to include among its participants employees of organizations controlled by or associated with the church, convention, or association of churches, it remains the case that a plan covering such "employees" cannot qualify as a "Church Plan" unless it was "established by" the church, convention, or association of churches. ERISA 3(33)(A), 29 U.S.C. § 1002(33)(A) (West 2013).

32. As to the second concern (regarding plans "maintained by" a separate church pension board) the 1980 amendments spoke to the issue as follows:

> A plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches includes a plan maintained by an organization, whether a civil law corporation or otherwise, *the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits,* or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a

> church or a convention or association of churches.

ERISA § 3(33)(C)(i) (1980), 29 U.S.C. § 1002(33)(C)(i) (1980) (emphasis added) (current version at 29 U.S.C. § 1002(33)(C)(i) (West 2013). Accordingly, under this provision, a plan "established" by a church or by a convention/association of churches could retain its "Church Plan" status even if it was "maintained by" a distinct organization, so long as (1) "the principal purpose or function of [the organization] is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits"; and (2) the organization is "controlled by or associated with" the convention or association of churches. ERISA § 3(33)(C)(i), 29 U.S.C. § 1002(33)(C)(i) (1980) (current version at 29 U.S.C. § 1002(33)(C)(i) (West 2013)).

33. This church "pension board" clarification has no bearing on plans that were not "established" by a church or by a convention or association of churches. Thus, a plan "established" by an organization "controlled by or associated with" a church would not be a "Church Plan" because it was not "established" by a church or a convention or association of churches.

34. Further, this "pension board" clarification has no bearing on plans that were not "maintained" by a church pension board. Thus, even if a plan was "established" by a church, and even if it was "maintained by" an organization "controlled by or associated with" a church, such as a school, hospital, or publishing company, it still would not be a "Church Plan" if the principal purpose of the organization was *other than* the administration or funding of the plan. In such plans, the plan is "maintained" by the school, hospital or publishing company, and usually through the

human resources department of such entity. It is not maintained by a church pension board: No "organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits" maintains the plan. *Compare with* ERISA § 3(33)(C)(i), 29 U.S.C. § 1002(33)(C)(i) (1980) (current version at 29 U.S.C. § 1002(33)(C)(i) (West 2013)).

35. The requirements for Church Plan status under ERISA, both as originally adopted in 1974 and as amended in 1980 are, as explained above, very clear. There is no tension between the legislative history of the 1980 amendment and the amendment itself: The Congress enacted exactly what it wanted to enact. Fundamental to the scheme, both as originally adopted and as fine-tuned in 1980, was that neither an "affiliate" of the church (using the 1974 language) nor "an organization controlled by or associated with" a church (using the 1980 language) could *itself establish* a Church Plan. Its employees could be *included* in a Church Plan, but if it sponsored its own plan, that was not a Church Plan. With respect to "pension boards," the 1980 legislation simply clarified the long standing practice that churches could use their own financial organizations to manage their Church Plans.

36. Unfortunately, in 1983, in response to a request for a private ruling, the Internal Revenue Service ("IRS") issued a short General Counsel Memorandum that misunderstood the statutory framework. The author incorrectly relied on the "pension board" clarification to conclude that a non-church entity could sponsor its own Church Plan as long as the plan was managed by some "organization," that was controlled by or associated with a church. This, of course, is not

what the statute says, nor what Congress intended. In any event, the mistake was then repeated, often in verbatim language, in subsequent IRS determinations and, after 1990, in DOL determinations. Under the relevant law, these private rulings may only be relied upon by the parties thereto, within the narrow confines of the specific facts then disclosed to the agencies, and are not binding on this Court in any event. A few district court cases have relied on these letters to reach the same erroneous conclusion.

V. DIGNITY

A. Dignity's Operations.

37. Defendant Dignity is a not-for-profit corporation organized under, and governed by, the California Corporations Code, including Division 2 thereof, the California Nonprofit Corporation Law, and it operates 40 hospitals in California, Arizona and Nevada and over 300 ancillary health care facilities in sixteen states which provide urgent care, outpatient services, home healthcare services, occupational healthcare, preventive care and rehabilitative care. As of its fiscal 2012 year end, Dignity had approximately $13.5 billion in assets, and operating revenues of approximately $10.5 billion.

38. Dignity is currently the fifth largest healthcare system in the United States.

39. Dignity employs approximately 60,000 employees.

40. Since its founding in 1986 Dignity has pursued a growth plan which has included the acquisition of more than 150 ancillary healthcare facilities and the following hospitals that have no claimed ties to religion:

i) Barrow Neurological Institute, Phoenix, Arizona in 1986;

ii) Bakersfield Memorial Hospital, Bakersfield, California in 1996;

iii) Sequoia Hospital, Redwood City, California in 1996;

iv) Sierra Nevada Memorial Hospital, Grass Valley, California in 1996;

v) Woodland Healthcare, Woodland, California in 1996.

vi) Marian Regional Medical Center, Santa Maria, California in 1997;

vii) California Hospital Medical Center, Los Angeles, California in 1998;

viii) Community Hospital of San Bernardino, San Bernardino, California in 1998;

ix) Glendale Memorial Hospital and Health Center, Glendale, California in 1998;

x) Northridge Hospital Medical Center, Los Angeles, California in 1998;

xi) Oak Valley Hospital, Oakdale, California in 1998;

xii) Chandler Regional Medical Center, Chandler, Arizona in 1999; and

xiii) Arroyo Grande Community Hospital, Arroyo Grande, California in 2004. These facilities do not purport, and have never purported, to adhere to the moral and doctrinal teaching of the Catholic Church, and Dignity continues to operate these facilities in such fashion.

41. In order to maximize its future growth and partnership opportunities in the changing United States health care system, Dignity's current growth model calls for it to acquire additional outpatient clinics and ambulatory care service centers that have no claimed ties to religion. These facilities do not purport, and have never purported, to adhere to the moral and doctrinal teaching of the Catholic Church, and Dignity continues to operate these facilities in such fashion.

42. As recently as July, 2012 Dignity acquired U.S. HealthWorks, the largest independent for profit operator of occupational medicine and urgent care centers in the United States. With the acquisition of U.S. HealthWorks, Dignity added a network of 172 medical centers that have no claimed ties to religion, which collectively employ 2,700 employees who deliver health care to more than 12,000 patients a day. These facilities do not purport, and have never purported, to adhere to the moral and doctrinal teaching of the Catholic Church, and Dignity continues to operate these facilities in such fashion.

43. Like other large non-profit hospital systems, Dignity relies upon revenue bonds to raise money, and it has significant sums invested in, among other things, fixed-income securities, equity securities, and hedge funds.

44. The present governance and leadership of Dignity is composed of two groups: (i) the Board of Directors, which holds all key operational powers, including approving long-range strategic plans, the allocation of capital, joint ventures, and major acquisitions and sales; and (ii) the Executive Leadership Team which is appointed by the Board and charged

with providing leadership and organizational management in the areas of operations, mission integration, finance and support services, as well as leadership in the strategic direction of the organization.

45. The Dignity Board currently consists of nine members, all but two of which are lay people. The Executive Leadership Team is comprised entirely of lay people.

46. The Executive Officers of Dignity that make up the Executive Leadership Team receive compensation in line with executive officers of large publicly traded companies. For example, in 2010 the President and CEO received $5.1 million in total compensation, the CFO received $2.9 million in total compensation, and the COO received total compensation of $2.3 million. In addition, at least nine other officers received over $1 million in compensation in 2010.

47. Dignity is not owned by the Catholic Church. Dignity does not receive funding from the Catholic Church or the other religious organizations that may have once owned and operated hospitals that have since been acquired by Dignity.

48. Dignity specifically does not limit employment to those of any particular faith, but instead hires employees without any reference to creed or religion in an attempt to hire the most qualified healthcare workers.

49. Dignity does not claim to be a church and is not one.

50. Dignity does not impose any religious beliefs or practices on its clients/patients, and specifically offers spiritual care to its patients without regard to any religion or creed. For those patients who are religious,

Dignity offers contact with the minister, priest, rabbi, or spiritual leader of their patients' choosing. In some of its hospitals, Dignity provides a nondenominational chapel, as many airports do.

51. Dignity either provides for or facilitates family planning services that are prohibited by the Catholic Church. At least 21 of the Dignity hospitals which provide elective, contraceptive sterilization procedures, such as tubal ligation, that the Catholic Church considers immoral, evil, and illegal. Dignity has also entered into a partnership through which it facilitates the performance of contraceptive services, female sterilization, and male sterilization.

52. Dignity purports to disclose, and not keep confidential, its own highly complex financial records. For example, Dignity is required and in some cases has voluntarily elected to comply with a broad array of elaborate state and federal regulations and reporting requirements, including Medicare and Medicaid. In addition, Dignity makes public its consolidated financial statements, which describe Dignity's representations as to its own highly complex operations and financial affairs. Finally, Dignity financial information is regularly disclosed to the rating agencies and the public when tax exempt revenue bonds are issued.

B. Dignity's Pension Plans

53. Dignity maintains the Dignity Plans, which are non-contributory defined benefit pension plans covering substantially all of its employees.

54. In 2011 the Dignity Plans were amended to, among other things, freeze certain ongoing final average pay formulas and replace them with cash balance formulas, and freeze certain past service benefits for

employees already in cash balance formulas (the "2011 Amendments").

55. As of June 30, 2012, the Dignity Plans were unfunded by $1.2 billion.

1. Dignity's Plans Meet the Definition of an ERISA Defined Benefit Plan

56. The Dignity Plans are plans, funds, or programs that were established or maintained by Dignity and which by their express terms and surrounding circumstances provide retirement income to employees and/or result in the deferral of income by employees to the termination of their employment or beyond. As such, the Dignity Plans meet the definition of "employee pension benefit plans" within the meaning of ERISA section 3(2)(A), 29 U.S.C. § 1002(2)(A).

57. The Dignity Plans do not provide for an individual account for each participant and do not provide benefits solely upon the amount contributed to a participant's account. As such, the Dignity Plans are defined benefit plans within the meaning of ERISA section 3(35), 29 U.S.C. § 1002(35), and are not individual account plans or "defined contribution plans" within the meaning of ERISA section 3(34), 29 U.S.C. § 1002(34).

2. The Sponsor and Fiduciaries of the Dignity Plans

58. As an employer establishing and/or maintaining the Dignity Plans, Defendant Dignity is and has been the Plan Sponsor of the Dignity Plans within the meaning of ERISA section 3(16)(B), 29 U.S.C. § 1002(16)(B), at least since 1986.

59. Upon information and belief, at least from 1986 to the present, the terms of the instrument, or

instruments, under which some or all of the Dignity Plans are operated do not specifically designate any person as a Plan Administrator sufficient to meet the requirements of ERISA section 402, 29 U.S.C. § 1102.

60. In the absence of a Plan Administrator specifically designated in or pursuant to any instrument governing the Plans, the Plan Sponsor of the Dignity Plans under ERISA section 3(16)(A)(ii), 29 U.S.C. § 1002(16)(A)(ii), is the Plan Administrator.

61. As Defendant Dignity is and has been the Plan Sponsor of the Dignity Plans, Defendant Dignity was also the Plan Administrator of the Plans within the meaning of ERISA section 3(16)(A), 29 U.S.C. § 1002(16)(A). As such, Defendant Dignity also is and has been a fiduciary with respect to the Plans within the meaning of ERISA section 3(21)(A)(iii), 29 U.S.C. § 1002(21)(A)(iii), because the Plan Administrator, by the very nature of the position, has discretionary authority or responsibility in the administration of the Plans.

62. Defendant Dignity is also a fiduciary with respect to the Dignity Plans within the meaning of ERISA section 3(21), 29 U.S.C. § 1002(21), because it exercises discretionary authority or discretionary control respecting management of the Dignity Plans, exercises authority and control respecting management or disposition of the Dignity Plans' assets, and/or has discretionary authority or discretionary responsibility in the administration of the Dignity Plans.

63. Alternatively, upon information and belief, the terms of the instrument, or instruments, under which some or all of the Dignity Plans are operated specifically designate the Dignity Retirement Committee as the Plan Administrator within the meaning of ERISA

section 3(16)(A)(i), 29 U.S.C. § 1002(16)(A)(i) sufficient to meet the requirements of ERISA section 402, 29 U.S.C. § 1102. As such, the Defendant members of the Dignity Retirement Committee are and have been fiduciaries with respect to some or all of the Dignity Plans within the meaning of ERISA section 3(21)(A)(iii), 29 U.S.C. § 1002(21)(A)(iii), because the persons administering the Plans, by the very nature of their positions, have discretionary authority or responsibility in the administration of the Plans.

64. Defendant Vanier, as Executive Vice President and Chief Human Resources Officer of Dignity, is also a fiduciary with respect to the Dignity Plans within the meaning of ERISA section 3(21), 29 U.S.C. § 1002(21), because, upon information and belief, he exercises discretionary authority or discretionary control respecting management of the Dignity Plans, exercises authority and control respecting management or disposition of the Dignity Plans' assets, and/or has discretionary authority or discretionary responsibility in the administration of the Dignity Plans.

65. Although Dignity, including specifically through its Human Resources Department and the Dignity Retirement Committee, maintains that it's defined benefit pension plans are exempt from ERISA coverage as Church Plans, it claims ERISA status for its health and welfare benefit plans, dependent life insurance plans, and short term disability plans and complies with ERISA requirements for those plans, including by filing form 5500's annually with the Internal Revenue Service and the U.S. Department of Labor and making its records subject to inspection upon request.

3. The Dignity Pension Plans Do Not Disclose Information About The Dignity Plans or the Benefits available to Participants under the Plans

66. Plaintiff Rollins requested in writing that the Plan Administrator for the Dignity Pension Plans provide her with a benefit statement that included a description of all pension benefits to which she is entitled under the Dignity Pension Plans.

67. Plaintiff also requested that the Plan Administrator for the Dignity Pension Plans provide her with the following materials regarding any of the Dignity Pension Plans under which she was entitled to receive pension benefits: (1) the latest updated summary plan description; (2) any summaries of material modifications; (3) the latest annual report, (4) any terminal report; (5) the latest annual financial report; and (6) the bargaining agreement, trust agreement, contract, or other instruments under which such plans are established or operated, and any applicable amendments.

68. Although it has been more than 90 days since Plaintiff made these requests in writing to the Plan Administrator of the Dignity Pension Plans, the Plaintiff has not been provided with a response and has not received a benefits statement or any of the requested materials.

4. The Dignity Plans Are Not Church Plans

69. Dignity claims the Dignity Plans are Church Plans under ERISA section 3(33), 29 U.S.C. § 1002(33), and the analogous section of the Internal Revenue Code ("IRC"), and are therefore exempt from ERISA's coverage under ERISA section 4(b)(2), 29 U.S.C. § 1003(b)(2).

a. Only Two Types of Plans May Qualify as Church Plans and The Dignity Plans are Neither

70. Under section 3(33) of ERISA, 29 U.S.C. § 1002(33), only the following two types of plans may qualify as Church Plans:

- First, under section 3(33)(A) of ERISA, 29 U.S.C. § 1002(33)(A), a plan *established and maintained* by a church or convention or association of churches, can qualify under certain circumstances and subject to the restrictions of section 3(33)(B) of ERISA, 29 U.S.C. § 1002(33)(B); and
- Second, under section 3(33)(C)(i) of ERISA, 29 U.S.C. § 1002(33)(C)(i), a plan *established* by a church or by a convention or association of churches that is *maintained* by an organization, *the principal purpose or function of which* is the administration or funding of a retirement plan, if such organization is controlled by or associated with a church or convention or association of churches, can qualify under certain circumstances and subject to the restrictions of section 3(33)(B) of ERISA, 29 U.S.C. § 1002(33)(B).

Both types of plans must be "established" by a church or by a convention or association of churches in order to qualify as "Church Plans."

71. Although other portions of ERISA section 3(33)(C) address, among other matters, who can be *participants* in Church Plans—in other words, which employees can be in Church Plans, etc. – these other portions of ERISA section 3(33)(C) do not add any

other type *of plan* that can be a Church Plan. 29 U.S.C. § 1002(33)(C), The only two types of plans that can qualify as Church Plans are those described in ERISA section 3(33)(A) and in section 3(33)(C)(i), 29 U.S.C. §§ 3(33)(A) and (C)(i). The Dignity Plans do not qualify as Church Plans under either ERISA section 3(33)(A) or section 3(33)(C)(i), 29 U.S.C. §§ 3(33)(A) or (C)(i).

72. First, under ERISA section 3(33)(A), a Church Plan is "a plan established and maintained for its employees by a church or by a convention or association of churches which is exempt from tax under section 501 of title 26." ERISA § 3(33)(A), 29 U.S.C. § 1002(33)(A).

73. The Dignity Plans at issue here are not and have never been Church Plans as defined in ERISA section 3(33)(A), 29 U.S.C. § 1002(33)(A), because the Dignity Plans were established and maintained by Dignity for its own employees. Because Dignity is not a church or a convention or association of churches, nor does it claim to be, the Dignity Plans were not "established and maintained by" a church or a convention or association of churches and were not maintained for employees of a church or a convention or association of churches. That is the end of the inquiry under ERISA section 3(33)(A), 29 U.S.C. § 1002(33)(A).

74. Second, under ERISA section 3(33)(C)(i), a Church Plan also includes a plan "established" by a church or by a convention or association of churches that is "maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches,

if such organization is controlled by or associated with a church or a convention or association of churches." ERISA § 3(33)(C)(i), 29 U.S.C. § 1002(33)(C)(i).

75. The Dignity Plans are not Church Plans as defined in ERISA section 3(33)(C)(i), 29 U.S.C. § 1002(33)(C)(i), because the Dignity Plans were not "established" by a church or a convention or association of churches. Moreover, the Dignity Plans do not qualify as "Church Plans" under section 3(33)(C)(i) because they were maintained by Dignity, whose principal purpose or function is not the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both. Instead, the principal purpose of Dignity is to own and operate hospitals and ancillary healthcare entities. This ends any argument that the Dignity Plans could be Church Plans under ERISA section 3(33)(C)(i), 29 U.S.C. § 1002(33)(C)(i).

76. However, even if the Dignity Plans had been "established" by a church or even if the principal purpose or function of Dignity *was* the administration or funding of the Dignity Plans (instead of running a hospital conglomerate), the Dignity Plans still would not qualify as Church Plans under ERISA section 3(33)(C)(i), 29 U.S.C. § 1002(33)(C)(i), because the principal purpose of the Plans is not to provide retirement or welfare benefits *to employees of a church or convention or association of churches.* The 60,000 participants in the Dignity Plans work for Dignity, a non-profit hospital conglomerate. Dignity is not a church or a convention or association of churches, and its employees are not employees of a church or a convention or association of churches.

77. Under ERISA section 3(33)(C)(ii), 29 U.S.C. § 1002(33)(C)(ii), however, an employee of a tax

exempt organization that is controlled by or associated with a church or a convention or association of churches also may be considered an employee of a church. But the Dignity Plans also fail this part of the definition, because Dignity is not controlled by or associated with a church or a convention or association of churches within the meaning of ERISA.

78. Though this fact may be disputed by Dignity, Dignity is not an entity that is controlled by a church or a convention or association of churches. Dignity is not owned by the Catholic Church and does not receive funding from the Catholic Church. Moreover, although the lack of funding of, and control over, the operations of Dignity precludes a finding that the Catholic Church controlled Dignity within the meaning of ERISA, Dignity's governance structure further demonstrates a lack of control, as Dignity is operated by a lay Executive Leadership Team selected by its Board of Directors.[2]

79. Moreover, Dignity is not "associated with" a church or convention or association of churches. Under ERISA section 3(33)(C)(iv), 29 U.S.C. § 1002(33)(C)(iv), an organization "is associated with a church or a convention or association of churches if it shares common religious bonds and convections with that church or convention or association of churches." Dignity does not share common religious bonds and convictions with a church or a convention of association of churches. Instead, it purports to share only some religious convictions with the Catholic Church, while deliberately choosing to distance itself from,

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[2] Notably, if Dignity was "controlled by" the Catholic Church, then the Catholic Church itself would be exposed to significant potential liability stemming from medical malpractice and other legal claims related to the provision of medical care by Dignity.

and/or deny, other religious convictions of the Catholic Church, when it is in its economic interest to do so, such as when it hires employees, invests in various business enterprises, encourages divergent and contrary spiritual support to its patients, and performs or authorizes medical procedures forbidden by the Catholic Church.

80. The Catholic Church insists, for example, that the mystery of Christ be a part of every facet of a Catholic healthcare ministry, including by animating health care with the Gospel of Jesus Christ and seeing death as an opportunity to have communion with Christ. Further, the Catholic Church requires that its healthcare employees, *as a condition of employment,* agree that their services be animated by the Gospel of Jesus Christ. Dignity, however, specifically chooses not to make animation of healthcare through the Gospel of Jesus Christ a condition of employment and informs prospective employees that Catholic faith is not a factor in the hiring process. Indeed, Dignity recruits and hires from the greatest employment pool possible—one not restricted by any faith—in an attempt to hire the most qualified healthcare workers. Moreover, at least 21 of the Dignity hospitals which provide obstetric care perform elective, contraceptive sterilization procedures on patients in contravention of Catholic directives.

81. Perhaps most unlike a church, Dignity provides non-denominational chapels and offers its patients contact with priests, ministers, rabbis or spiritual advisors of their choice. It is axiomatic that these individuals, with whom Dignity offers contact—including the protestant ministers, Jewish rabbis and spiritual advisors—have religious convictions that the Catholic Church views as clear error. Dignity

specifically chooses not to promote Catholic faith to its clients and patients. Finally, Dignity has pursued a growth model that focuses on the acquisition of health care facilities that have no claimed ties to religion. These facilities do not purport, and have never purported, to adhere to the moral and doctrinal teaching of the Catholic Church, and Dignity continues to operate these facilities in such fashion. Thus, in pursuing this growth model, Dignity has deliberately chosen to further distance itself from adherence to the religious convictions of the Catholic Church in order increase its opportunities for future growth and partnership and to capture a larger share of the changing healthcare market nationally. So while Dignity may purport to share common religious bonds and convictions with the Catholic Church, it in fact only *selectively chooses to share a bare few such bonds and convictions,* and ignores or abandons Catholic convictions when it is in its economic interest to do so.

82. Accordingly, Dignity is not "associated with" the Catholic Church within the meaning of ERISA section 3(33)(C)(iv), 29 U.S.C. § 1002(33)(C)(iv), and thus its employees are not "employees" of a church or convention or association of churches within the meaning of ERISA section 3(33)(C)(ii), 29 U.S.C. § 1002(33)(C)(ii). Because the Dignity Plans were not established and maintained for the provision of retirement benefits for "employees of a church or convention or association of churches," the Dignity Plans fail to qualify as "Church Plans" under ERISA section 3(33)(C)(i). 29 U.S.C. § 1002(33)(C)(i).

83. The Dignity Plans further fail to satisfy the requirements of ERISA section 3(33)(C)(i) because this section requires the organization that maintains the plans to be "controlled by or associated with" a church

or convention or association of churches within the meaning of ERISA. 29 U.S.C. § 1002(33)(C)(i). Thus, even if (1) the church had "established" the Dignity Plans (which it did not); (2) the principal purpose or function of Dignity was the administration or funding of the Dignity Plans (instead of running a hospital conglomerate); and (3) Dignity employees were employees of a church or convention or association of churches (which they are not), the Dignity Plans still would not qualify as Church Plans under ERISA section 3(33)(C)(i) because—for the reasons outlined above—Dignity is not controlled by or associated with a church or convention or association of churches within the meaning of ERISA. 29 U.S.C. § 1002(33)(C)(i).

84. Finally, even if Dignity were "controlled by or associated with" a church, and thus its employees were deemed "employees" of a church under ERISA section 3(33)(C)(ii)(2), and even if the Dignity Plans were "maintained by" either a church or "pension board" satisfying the requirements of ERISA section 3(33)(C)(i), the Dignity Plans would still not be "Church Plans" because *all* "Church Plans" must be "established" by a church or by a convention or association of churches. 29 U.S.C. §§ 1002(33)(A), (C)(i). Although a church may be deemed an "employer" of the employees of an organization that it "controls" or with which it is "associated," see ERISA § (3)33(C)(iii), 29 U.S.C. § 1002(33)(C)(iii), nothing in ERISA provides that the church may be deemed to have "established" a retirement plan that was in fact established by the "controlled" or "associated" organization. Accordingly, because Dignity established the Dignity Plans, the plans cannot be "Church Plans" within the meaning of ERISA.

b. Even *if* the Dignity Plans Could Otherwise Qualify as Church Plans under ERISA Section 3(33)(A), They are Excluded From Church Plan Status under ERISA Section 3(33)(B)(ii)

85. Under ERISA section 3(33)(B)(ii), 29 U.S.C. § 1002(33)(B)(ii), a plan is specifically excluded from Church Plan status if less than substantially all of the plan participants are members of the clergy or employed by an organization controlled by or associated with a church or convention or association of churches. In this case, there are 60,000 participants in the Dignity Plans, and very nearly all of them are non-clergy healthcare workers.

86. If the 60,000 participants in the Dignity Plans do not work for an organization that is controlled by or associated with a church or convention or association of churches, then even if the Dignity Plans could otherwise qualify as Church Plans under either ERISA section 3(33)(A) or (C)(ii), they still would be foreclosed from Church Plan status under section 3(33)(B)(ii), 29 U.S.C. § 1002(33)(B)(ii).

87. As set forth above, Dignity is not controlled by a church or association of churches, nor does it share common religious bonds and convictions with a church or association of churches. Instead, it purports to share only some religious convictions with the Catholic Church, while deliberately choosing to distance itself from, the convictions of the Catholic Church, when it is in its economic interest to do so.

c. Even *if* the Dignity Plans Could Otherwise Qualify as Church Plans under ERISA, the Church Plan Exemption, as Claimed By Dignity, Violates the Establishment Clause of the First Amendment of the Constitution, and Is Therefore Void and Ineffective

88. The Church Plan exemption is an accommodation *for churches* that establish and maintain pension plans, and it allows such plans to be exempt from ERISA. As set forth in more detail below in Count VIII, the extension of that accommodation to Dignity, which is not a church, violates the Establishment Clause because it harms Dignity workers, puts Dignity competitors at an economic disadvantage, and relieves Dignity of no genuine religious burden created by ERISA. Accordingly, the Church Plan exemption, as claimed by Dignity, is void and ineffective.

VI. CLASS ALLEGATIONS

89. Plaintiff brings this action as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of herself and the following class of persons similarly situated: All participants or beneficiaries of any Dignity Plans operated as or claimed by Dignity to be Church Plans as of the date of the filing of this Complaint. Excluded from the Class are any high-level executives at Dignity or any employees who have responsibility or involvement in the administration of the Plan, or who are subsequently determined to be fiduciaries of one or more of the Dignity Plans, including the Individual Defendants.

A. Numerosity

90. The exact number of Class members is unknown to Plaintiff at this time, but may be readily determined from records maintained by Dignity. Dignity currently employs approximately 60,000 individuals. Upon information and belief, many if not all of those persons are likely members of the Class, and thus the Class is so numerous that joinder of all members is impracticable.

91. Defendant Dignity operates hospitals in Arizona, Nevada and California as well as over 300 ancillary healthcare facilities spread across sixteen states. Upon information and belief, Dignity's employees and, therefore, the members of the Class are geographically dispersed across at least sixteen states.

B. Commonality

92. The issues regarding liability in this case present common questions of law and fact, with answers that are common to all members of the Class, including (1) whether the Plans are exempt from ERISA as Church Plans, and, if not, (2) whether the fiduciaries of the Plans have failed to administer and fund the Plans in accordance with ERISA.

93. The issues regarding the relief are also common to the members of the Class as the relief will consist of (1) a declaration that the Plans are ERISA covered plans; (2) an order requiring that the Plans comply with the administration and funding requirements of ERISA; and (3) an order requiring Dignity to pay civil penalties to the Class, in the same statutory daily amount for each member of the Class.

C. Typicality

94. Plaintiffs claims are typical of the claims of the other members of the Class because her claims arise from the same event, practice and/or course of conduct, namely Defendants' failure to maintain the Plans in accordance with ERISA. Plaintiffs claims are also typical because all Class members are similarly affected by Defendants' wrongful conduct.

95. Plaintiffs claims are also typical of the claims of the other members of the Class because, to the extent Plaintiff seeks equitable relief, it will affect all Class members equally. Specifically, the equitable relief sought consists primarily of (i) a declaration that the Dignity Plans are not Church Plans; and (ii) a declaration that the Dignity Plans are ERISA covered plans that must comply with the administration and funding requirements of ERISA. In addition, to the extent Plaintiff seeks monetary relief, it is for civil fines to the Class, in the same statutory daily amount for each member of the Class.

96. Dignity does not have any defenses unique to Plaintiffs claims that would make Plaintiffs claims atypical of the remainder of the Class.

D. Adequacy

97. Plaintiff will fairly and adequately represent and protect the interests of all members of the Class.

98. Plaintiff does not have any interests antagonistic to or in conflict with the interests of the Class.

99. Defendant Dignity and the Individual Defendants have no unique defenses against the Plaintiff that would interfere with Plaintiff's representation of the Class.

100. Plaintiff has engaged counsel with extensive experience prosecuting class actions in general and ERISA class actions in particular.

E. Rule 23(b)(1) Requirements.

101. The requirements of Rule 23(b)(1)(A) are satisfied because prosecution of separate actions by the members of the Class would create a risk of establishing incompatible standards of conduct for Defendants.

102. The requirements of Rule 23(b)(1)(B) are satisfied because adjudications of these claims by individual members of the Class would, as a practical matter, be dispositive of the interests of the other members not parties to the actions, or substantially impair or impede the ability of other members of the Class to protect their interests.

F. Rule 23(b)(2) Requirements.

103. Class action status is also warranted under Rule 23(b)(2) because Defendants have acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive, declaratory, or other appropriate equitable relief with respect to the Class as a whole.

G. Rule 23(b)(3) Requirements.

104. If the Class is not certified under Rule 23(b)(1) or (b)(2) then certification under (b)(3) is appropriate because questions of law or fact common to members of the Class predominate over any questions affecting only individual members. The common issues of law or fact that predominate over any questions affecting only individual members include: (1) whether the Plans are exempt from ERISA as Church Plans, and, if not, (2) whether the fiduciaries of the Plans have failed to administer and fund the Plans in accordance

with ERISA; and (3) whether the Church Plan exemption, as claimed by Dignity, violates the Establishment Clause of the First Amendment. A class action is superior to the other available methods for the fair and efficient adjudication of this controversy because:

A. Individual class members do not have an interest in controlling the prosecution of these claims in individual actions rather than a class action because the equitable relief sought by any Class member will either inure to the benefit of the Plan or affect each class member equally;

B. Individual Class members also do not have an interest in controlling the prosecution of these claims because the monetary relief that they could seek in any individual action is identical to the relief that is being sought on their behalf herein;

C. There is no other litigation begun by any other Class members concerning the issues raised in this litigation;

D. This litigation is properly concentrated in this forum, which is where Defendant Dignity is headquartered.

E. There are no difficulties managing this case as a class action.

VII. CAUSES OF ACTION

COUNT I
(Claim for Equitable Relief Pursuant to ERISA Section 502(a)(3) Against Defendant Dignity)

105. Plaintiff repeats and re-alleges the allegations contained in all foregoing paragraphs herein.

106. ERISA section 502(a)(3), 29 U.S.C. § 1132(a)(3), authorizes a participant or beneficiary to bring a civil

action to obtain "appropriate equitable relief . . . to enforce any provisions of this title." Pursuant to this provision, and 28 U.S.C. §§ 2201 and 2202, and Federal Rule of Civil Procedure 57, Plaintiff seeks declaratory relief that the Dignity Plans are not Church Plans within the meaning of ERISA section 3(33), 29 U.S.C. § 1002(33), and thus are subject to the provisions of Title I and Title IV of ERISA.

107. ERISA section 502(a)(3), 29 U.S.C. § 1132(a)(3), also authorizes a participant or beneficiary to bring a civil action to "(A) to enjoin any act or practice which violates any provision of this title or the terms of the plan, or (B) to obtain other appropriate equitable relief (i) to redress such violations or (ii) to enforce any provisions of this subchapter or the terms of the plan." Pursuant to these provisions, Plaintiff seeks orders directing the Dignity Plans' sponsor and administrator, Dignity, to bring the Dignity Plans into compliance with ERISA, including the reporting, vesting, and funding requirements of Parts 1, 2 and 3 of ERISA, 29 U.S.C. §§ 1021-31, 1051-61, 1081-85.

108. As the Dignity Plans are not Church Plans within the meaning of ERISA section 3(33), 29 U.S.C. § 1002(33), and meet the definition of a pension plan under ERISA section 3(2), 29 U.S.C. § 1002(2), each of the Dignity Plans should be declared to be an ERISA-covered pension plan, and the Dignity Plans' sponsor, Dignity, should be ordered to bring the Dignity Plans into compliance with ERISA, including by remedying the violations set forth below.

COUNT II
(Claim for Violation of Reporting and Disclosure Provisions Against Defendant Dignity and/or the members of the Dignity Retirement Committee)

109. 109. Plaintiff incorporates and re-alleges by reference the foregoing paragraphs as if fully set forth herein.

A. Summary Plan Descriptions

110. At no time have Dignity and/or the members of the Dignity Retirement Committee provided Plaintiff or any member of the Class with a Summary Plan Description with respect to the Dignity Plans that meets the requirements of ERISA section 102, 29 U.S.C. § 1022, and the regulations promulgated thereunder.

111. Because Dignity and/or the members of the Dignity Retirement Committee have been the Plan Administrator of the Plans at all relevant times, and/or the members of the Dignity Retirement Committee have violated ERISA section 104, 29 U.S.C. § 1024, by failing to provide Plaintiff and members of the Class with adequate Summary Plan Descriptions.

B. Annual Reports

112. At no time has an annual report with respect to the Dignity Plans been filed with the Secretary of Labor in compliance with ERISA section 103, 29 U.S.C. § 1023, or a Form 5500 and associated schedules and attachments which the Secretary has approved as an alternative method of compliance with ERISA section 103, 29 U.S.C. § 1023.

113. Because Dignity and/or the members of the Dignity Retirement Committee have been the Plan

Administrator of the Dignity Plans at all relevant times, Dignity and/or the members of the Dignity Retirement Committee have violated ERISA section 104(a), 29 U.S.C. § 1024(a), by failing to file annual reports with respect to the Dignity Plans with the Secretary of Labor in compliance with ERISA section 103, 29 U.S.C. § 1023, or Form 5500s and associated schedules and attachments that the Secretary has approved as an alternate method of compliance with ERISA section 103, 29 U.S.C. § 1023.

C. Summary Annual Reports

114. At no time have Dignity and/or the members of the Dignity Retirement Committee furnished Plaintiff or any member of the Class with a Summary Annual Report with respect to the Dignity Plans in compliance with ERISA section 104(b)(3) and regulations promulgated thereunder. 29 U.S.C. § 1024(b)(3).

115. Because Dignity and/or the members of the Dignity Retirement Committee have been the Plan Administrator of the Dignity Plans at all relevant times, Dignity and/or the members of the Dignity Retirement Committee have violated ERISA section 104(b)(3), 29 U.S.C. § 1024(b)(3), by failing to furnish Plaintiff or any member of the Class with a Summary Annual Report with respect to the Dignity Plans in compliance with ERISA section 104(b)(3) and regulations promulgated thereunder. 29 U.S.C. § 1024(b)(3).

D. Notification of Failure to Meet Minimum Funding

116. At no time has Dignity furnished Plaintiff or any member of the Class with a Notice with respect to the Dignity Plans pursuant to ERISA section 101(d)(1), 29 U.S.C. § 1021(d)(1), informing them that Dignity had failed to make payments required to

comply with ERISA section 302, 29 U.S.C. § 1082, with respect to the Dignity Plans.

117. Defendant Dignity has been the employer that established and/or maintained the Dignity Plans.

118. At no time has Defendant Dignity funded the Dignity Plans in accordance with ERISA section 302, 29 U.S.C. § 1082.

119. 119. As the employer maintaining the Dignity Plans, Defendant Dignity has violated ERISA section 302, 29 U.S.C. § 1082, by failing to fund the Dignity Plans, is liable for its own violations of ERISA section 101(d)(1), 29 U.S.C. § 1021(d)(1), and as such may be required by the Court to pay Plaintiff and each class member up to $110 per day (as permitted by 29 C.F.R. section 2575.502(c)(3)) for each day that Defendant has failed to provide Plaintiff and each Class member with the notice required by ERISA section 101(d)(1), 29 U.S.C. § 1021(d)(1).

E. Funding Notices

120. At no time have Dignity and/or the members of the Dignity Retirement Committee furnished Plaintiff or any member of the Class with a Funding Notice with respect to the Dignity Plans pursuant to ERISA section 101(f), 29 U.S.C. § 1021(f).

121. At all relevant times, Dignity and/or the members of the Dignity Retirement Committee have been the administrator of the Dignity Plans.

122. As the administrator of the Dignity Plans, Dignity and/or the members of the Dignity Retirement Committee have violated ERISA section 101(f) by failing to provide each participant and beneficiary of the Dignity Plans with the Funding Notice required by ERISA section 101(f), and as such may be required by

the Court to pay Plaintiff and each class member up to $110 per day (as permitted by 29 C.F.R. section 2575.502(c)(3)) for each day that Defendant has failed to provide Plaintiff and each Class member with the notice required by ERISA section 101(f).. 29 U.S.C. § 1021(f).

F. Pension Benefit Statements

123. At no time have Dignity and/or the members of the Dignity Retirement Committee furnished Plaintiff or any member of the Class with a Pension Benefit Statement with respect to the Dignity Plans pursuant to ERISA section 105(a)(1), 29 U.S.C. § 1025(a)(1).

124. At all relevant times, Dignity and/or the members of the Dignity Retirement Committee have been the administrator of the Dignity Plans.

125. As the administrator of the Dignity Plans, Dignity and/or the members of the Dignity Retirement Committee have violated ERISA section 105(a)(1) and as such may be required by the Court to pay Plaintiff and each class member up to $110 per day (as permitted by 29 C.F.R. section 2575.502(c)(3)) for each day that Defendant has failed to provide Plaintiff and each Class member with the Pension Benefit Statements required by ERISA section 105(a)(1). 29 U.S.C. § 1025(a)(1).

COUNT III
(Claim for Failure to Provide Minimum Funding Against Defendant Dignity)

126. Plaintiff incorporates and re-alleges by reference the foregoing paragraphs as if fully set forth herein.

127. ERISA section 302, 29 U.S.C. § 1082, establishes minimum funding standards for defined benefit

plans that require employers to make minimum contributions to their plans so that each plan will have assets available to fund plan benefits if the employer maintaining the plan is unable to pay benefits out of its general assets.

128. As the employer maintaining the Plans, Dignity was responsible for making the contributions that should have been made pursuant to ERISA section 302, 29 U.S.C. § 1082, at a level commensurate with that which would be required under ERISA.

129. Since at least 1996, Dignity has failed to make contributions in satisfaction of the minimum funding standards of ERISA section 302, 29 U.S.C. § 1082.

130. By failing to make the required contributions to the Dignity Plans, either in whole or in partial satisfaction of the minimum funding requirements established by ERISA section 302, Defendant Dignity has violated ERISA section 302. 29 U.S.C. § 1082.

COUNT IV
(Claim for Failure to Establish the Plans Pursuant to a Written Instrument Meeting the Requirements of ERISA Section 402 Against Defendant Dignity)

131. Plaintiff incorporates and re-alleges by reference the foregoing paragraphs as if fully set forth herein.

132. ERISA section 402, 29 U.S.C. § 1102, provides that every plan will be established pursuant to a written instrument which will provide among other things "for one or more named fiduciaries who jointly or severally shall have authority to control and manage the operation and administration of the plan" and will "provide a procedure for establishing and carrying out

a funding policy and method constituent with the objectives of the plan and the requirements of [Title I of ERISA]."

133. Although the benefits provided by the Dignity Plans were described to the employees and retirees of Dignity (and/or its affiliates and subsidiaries) in various written communications, the Dignity Plans have never been established pursuant to a written instrument meeting the requirements of ERISA section 402, 29 U.S.C. § 1102.

134. As Defendant Dignity has been responsible for maintaining the Dignity Plans and has amendment power over the Dignity Plans, Defendant Dignity violated section 402 by failing to promulgate written instruments in compliance with ERISA section 402 to govern the Dignity Retirement Plans' operations and administration. 29 U.S.C. § 1102.

COUNT V

(Claim for Failure to Establish a Trust Meeting the Requirements of ERISA Section 403 Against Defendant Dignity)

135. Plaintiff incorporates and re-alleges by reference the foregoing paragraphs as if fully set forth herein.

136. ERISA section 403, 29 U.S.C. § 1103, provides, subject to certain exceptions not applicable here, that all assets of an employee benefit plan shall be held in trust by one or more trustees, that the trustees shall be either named in the trust instrument or in the plan instrument described in section 402(a), 29 U.S.C. § 1102(a), or appointed by a person who is a named fiduciary.

137. Although the Dignity Plans' assets have been held in trust, the trust does not meet the requirements of ERISA section 403, 29 U.S.C. § 1103.

138. As Defendant Dignity has been responsible for maintaining the Dignity Plans and has amendment power over the Dignity Plans, Defendant Dignity violated section 403 by failing to put the Dignity Plans' assets in trust in compliance with ERISA section 403. 29 U.S.C. § 1103.

COUNT VI

(Claim for Civil Money Penalty Pursuant to ERISA Section 502(a)(1)(A) Against Defendant Dignity and/or the members of the Dignity Retirement Committee)

139. Plaintiff incorporates and re-alleges by reference the foregoing paragraphs as if fully set forth herein.

140. ERISA section 502(a)(1)(A), 29 U.S.C. § 1132(a)(1)(A), provides that a participant may bring a civil action for the relief provided in ERISA section 502(c), 29 U.S.C. § 1132(c).

141. ERISA section 502(c)(3), 29 U.S.C. § 1132(c)(3), as provided in 29 C.F.R. section 2575.502c-3, provides that an employer maintaining a plan who fails to meet the notice requirement of ERISA section 101(d), 29 U.S.C. § 1021(d), with respect to any participant and beneficiary may be liable for up to $110 per day from the date of such failure.

142. ERISA section 502(c)(3), 29 U.S.C. § 1132(c)(3), as amended per 29 C.F.R. section 2575.502c-3, provides that an administrator of a defined benefit pension plan who fails to meet the notice requirement of ERISA section 101(f), 29 U.S.C. § 1021(f), with respect

to any participant and beneficiary may be liable for up to $110 per day from the date of such failure.

143. ERISA section 502(c)(3), 29 U.S.C. § 1132(c)(3), as amended per 29 C.F.R. section 2575.502c-3, provides that an administrator of a defined benefit pension plan who fails to provide a Pension Benefit Statement at least once every three years to a participant with a nonforfeitable accrued benefit who is employed by the employer maintaining the plan at the time the statement is to be furnished as required by ERISA section 105(a), 29 U.S.C. § 1025(a), may be liable for up to $110 per day from the date of such failure.

144. As Defendant Dignity is the employer maintaining the Dignity Plans and has failed to give the notices required by ERISA section 101(d), 29 U.S.C. § 1021(d) as set forth in Count II Subpart D, Defendant Dignity is liable to the Plaintiff and each member of the Class in an amount up to $110 per day from the date of such failures until such time that notices are given and the statement is provided, as the Court, in its discretion, may order.

145. As Defendant Dignity and/or the members of the Dignity Retirement Committee are the Administrator of the Dignity Plans and have failed to give the notice required by ERISA section 101 (f), 29 U.S.C. § 1021 (f), and the Pension Benefit Statement required by ERISA section 105(a), 29 U.S.C. § 1025(a), as set forth in Count II Subparts E & F, Defendant Dignity and/or the members of the Dignity Retirement Committee are liable to the Plaintiff and each member of the Class in an amount up to $110 per day from the date of such failures until such time that notices are given and the statement is provided, as the Court, in its discretion, may order.

COUNT VII
(Claim for Breach of Fiduciary Duty Against All Defendants)

146. Plaintiff incorporates and realleges by reference the foregoing paragraphs as if fully set forth herein.

147. Plaintiff brings this Count VII for breach of fiduciary duty pursuant to ERISA section 502(a)(2), 29 U.S.C. § 1132(a)(2).

A. Breach of the Duty of Prudence and Loyalty

148. ERISA section 404(a)(1), 29 U.S.C. § 1104(a)(1), provides in pertinent part that a fiduciary shall discharge his duties with respect to a plan solely in the interest of the participants and beneficiaries and —

> (a) for the exclusive purpose of:
>
> > (i) providing benefits to participants and beneficiaries; and
> >
> > (ii) defraying reasonable expenses of administering the plan;
>
> (b) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims . . . [and]
>
> (c) in accordance with the documents and instruments governing the plan insofar as such documents and instruments are consistent with the provisions of this [title I of ERISA] and title IV.

149. 149. As fiduciaries with respect to the Dignity Plans, Defendants had the authority to enforce each provision of ERISA alleged to have been violated in the foregoing paragraphs pursuant to ERISA section 502(a)(3), 29 U.S.C. § 1132(a)(3). Having the authority to enforce the provisions of ERISA at those respective times, ERISA section 404(a)(1)(A)-(D), 29 U.S.C. § 1104(a)(1)(A)-(D), imposed on Defendants the respective duty to enforce those provisions in the interest of the participants and beneficiaries of the Dignity Plans during the times that each was a fiduciary of the Dignity Plans.

150. Defendants have never enforced any of the provisions of ERISA set forth in Counts with respect to the Dignity Plans.

151. By failing to enforce the provisions of ERISA set forth in Counts I-V, Defendants breached the fiduciary duties that they owed to Plaintiff and the Class.

152. The failure of Defendants to enforce the funding obligations owed to the Plan has resulted in a loss to the Dignity Plans equal to the foregone funding and earnings thereon, and profited Defendant Dignity by providing it the use of money owed to the Dignity Plans for its general business purposes.

B. Prohibited Transactions

153. ERISA section 406(a)(1)(B), 29 U.S.C. § 1106(a)(1)(B), prohibits a fiduciary with respect to a plan from directly or indirectly causing a plan to extend credit to a party in interest, as defined in ERISA section 3(14), 29 U.S.C. § 1002(14), if he or she knows or should know that such transaction constitutes an extension of credit to a party in interest.

154. ERISA section 406(a)(1)(D), 29 U.S.C. § 1106(a)(1)(D), prohibits a fiduciary with respect to a plan from directly or indirectly causing a plan to use assets for the benefit of a party in interest, if he or she knows or should know that such transaction constitutes a use of plan assets for the benefit of a party in interest.

155. ERISA section 406(b)(1), 29 U.S.C. § 1106(b)(1), prohibits the use of plan assets by a fiduciary with respect to a plan in his or her own interest or for his or her own account.

156. As fiduciaries with respect to the Plans and, with respect to Dignity, as an employer of employees covered by the Plans, and, with respect to Defendant Vallier as an Officer of Dignity, the Defendants at all relevant times were parties in interest with respect to the Dignity Plans pursuant to ERISA section 3(14)(A) and (C), 29 U.S.C. § 1002(14)(A) and (C).

157. By failing to enforce the funding obligations created by ERISA and owed to the Plans, Defendants extended credit from the Dignity Plans to Dignity in violation of ERISA section 406(a)(1)(B), 29 U.S.C. § 1106(a)(1)(B), when Defendants knew or should have known that their failure to enforce the funding obligation constituted such an extension of credit.

158. By failing to enforce the funding obligations created by ERISA and owed to the Dignity Plans, Defendants used Dignity Plan assets for Dignity's own benefit, when Defendants knew or should have known that their failure to enforce the funding obligations constituted such a use of Dignity Plan assets, in violation of ERISA section 406(a)(1)(D), 29 U.S.C. § 1106(a)(1)(D).

159. By failing to enforce the funding obligations created by ERISA and owed to the Dignity Plans,

Defendants used Dignity Plan assets in Dignity's interest in violation of ERISA section 406(b)(1), 29 U.S.C. § 1106(b)(1).

160. The failure of Defendants to enforce the funding obligations owed to the Dignity Plans has resulted in a loss to the Dignity Plans equal to the foregone funding and earnings thereon.

161. The failure of Defendants to enforce the funding obligations owed to the Dignity Plans has profited Defendant Dignity by providing it the use of money owed to the Dignity Plans for its general business purposes.

COUNT VIII

(Claim for Declaratory Relief That the Church Plan Exemption, as Claimed By Dignity, Violates the Establishment Clause of the First Amendment of the Constitution, and Is Therefore Void and Ineffective)

162. Plaintiff incorporates and re-alleges by reference the foregoing paragraphs as if fully set forth herein.

163. The Establishment Clause of the First Amendment of the Constitution mandates governmental neutrality between religion and nonreligion. U.S. Const. Amend. I. The ERISA Church Plan exemption is an accommodation that exempts churches and associations of churches, under certain circumstances, from compliance with ERISA. The ERISA Church Plan exemption, as claimed by Dignity, is an attempt to extend the accommodation beyond churches and associations of churches, to Dignity—a non-profit hospital and healthcare network. That extension violates the Establishment Clause because it harms Dignity workers, puts Dignity competitors at an economic

disadvantage, and relieves Dignity of no genuine religious burden created by ERISA.

A. Workers are Harmed. Employers, including Dignity, legally are not required to provide pensions; instead, they choose to provide pensions in order to reap tax rewards and attract and retain employees in a competitive labor market. Dignity hires without regard to the religious faith of prospective employees; indeed, any choice of faith, or lack thereof, is not a factor in the recruiting and hiring of Dignity employees. Thus, as a practical matter, and by Dignity's own design, its pension plan participants include people of a vast number of divergent faiths, as well as those who belong to no faith. To be constitutional, an accommodation such as the Church Plan exemption must not impose burdens on nonadherents without due consideration of their interests. The Church Plan exemption, as invoked by Dignity, places its tens of thousands of longtime employees' justified reliance on their pension benefits at great risk, including because the Plans are underfunded by over $1.2 billion. In addition, Dignity fails to provide the multitude of other ERISA protections designed to safeguard the pensions. The Church Plan exemption, as applied by Dignity, provides no consideration of the harm to Dignity's 60,000 employees, including all of those that are non-Catholic.

B. Rivals are Disadvantaged. Dignity's commercial rivals face substantial disadvantages in their competition with Dignity because the rivals must use their current assets to fully fund their pension plan obligations and provide the other ERISA protections. To be constitutional, an accommodation such as the Church Plan exemption must take

adequate account of any disadvantage it creates for nonbeneficiaries. The Church Plan exemption, as applied by Dignity, provides no consideration of the disadvantage it creates for Dignity's competitors.

C. No Genuine Religious Burden is Relieved. Dignity claims the Church Plan exemption to lighten its pension obligations and liabilities, not to adhere to a religious faith. To be constitutional, an accommodation such as the Church Plan exemption, which exempts compliance with ERISA, must relieve a genuine burden upon the recipient's *religious practice*. The Church Plan exemption, as claimed by Dignity, responds to no genuine burden created by ERISA on any Dignity religious practice.

164. Plaintiff seeks a declaration by the Court that the Church Plan exemption, as claimed by Dignity, is an unconstitutional accommodation under the Establishment Clause of the First Amendment, and is therefore void and ineffective.

VIII. PRAYER FOR RELIEF

165. WHEREFORE, Plaintiff prays that judgment be entered against the Defendant on all claims and request that the Court award the following relief:

A. Declaring that the Dignity Plans are employee benefit plans within the meaning of ERISA section 3(2), 29 U.S.C. § 1002(2), are defined benefit pension plans within the meaning of ERISA section 3(35), 29 U.S.C. § 1002(35), and are not Church Plans within the definition of section 3(33) of ERISA, 29 U.S.C. § 1002(33). Ordering Dignity to reform the Dignity Retirement Plan to bring the Dignity Plans into compliance with ERISA and to have the Dignity Plans comply with ERISA including as follows:

1. Revising Plan documents to reflect that the Plans are defined benefit plans regulated by ERISA.

2. Requiring Dignity to fund the Dignity Plans in accordance with ERISA's funding requirements, disclose required information to the Dignity Plans, participants and beneficiaries, and otherwise comply with all other reporting, vesting, and funding requirements of Parts 1, 2 and 3 of ERISA, 29 U.S.C. §§ 1021-31, 1051-61, 1081-85.

3. Reforming the Dignity Plans to comply with ERISA's vesting and accrual requirements and providing benefits in the form of a qualified joint and survivor annuity.

4. Requiring the adoption of an instrument governing the Dignity Plans that complies with ERISA section 402, 29 U.S.C. § 1102.

5. Requiring Dignity and/or the Dignity Retirement Committee to comply with ERISA reporting and disclosure requirements, including by filing Form 5500 reports, distributing ERISA-compliant Summary Plan Descriptions, Summary Annual Reports and Participant Benefit Statements, and providing Notice of the Dignity Plans' funding status and deficiencies.

6. Requiring the establishment of a Trust in compliance with ERISA section 403, 29 U.S.C. § 1103.

B. Requiring Dignity, as a fiduciary of the Plan, to make the Dignity Plans whole for any losses and disgorge any Dignity profits accumulated as a result of fiduciary breaches.

C. Appointing an Independent Fiduciary to hold the Dignity Plans' assets in trust, to manage and administer the Dignity Plans and their assets, and to enforce the terms of ERISA.

D. Requiring Dignity to pay a civil money penalty of up to $110 per day to Plaintiff and each Class member for each day it failed to inform Plaintiff and each Class member of its failure to properly fund the Plan.

E. Requiring Dignity and/or the Dignity Retirement Committee to pay a civil money penalty of up to $110 per day to Plaintiff and each Class member for each day it failed to provide Plaintiff and each Class member with a Funding Notice.

F. Requiring Dignity and/or the Dignity Retirement Committee to pay a civil money penalty of up to $110 per day to Plaintiff and each Class member for each day it failed to provide a benefit statement under ERISA section 105(a)(1)(B), 29 U.S.C. § 1025(a)(1)(B).

G. Ordering declaratory and injunctive relief as necessary and appropriate, including enjoining the Defendants from further violating the duties, responsibilities, and obligations imposed on them by ERISA, with respect to the Dignity Plans.

H. Declaring with respect to Count VIII, that the Church Plan exemption, as claimed by Dignity, is an unconstitutional accommodation under the Establishment Clause of the First Amendment, and is therefore void and ineffective.

I. Awarding to Plaintiff attorneys' fees and expenses as provided by the common fund doctrine,

ERISA section 502(g), 29 U.S.C. § 1132(g) and/or other applicable doctrine.

J. Awarding to Plaintiff taxable costs pursuant to ERISA section 502(g), 29 U.S.C. § 1132(g), 28 U.S.C. § 1920, and other applicable law.

K. Awarding to Plaintiff pre judgment interest on any amounts awarded pursuant to law.

L. Awarding, declaring or otherwise providing Plaintiff and the Class all relief under ERISA section 502(a), 29 U.S.C (section symbol) 1132(a), or any other pplicable law, that the Court deems proper.

DATED March 28, 2013.

COHEN MILSTEIN & TOLL, PLLC

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Attorney for Plaintiff

[Logo] Pension Benefit Guaranty Corporation
1200 K Street, N.W., Washington, D.C. 20005-4026

Sam Hoffman, Esq.
Weissburg and Aronson, Inc.
402 West Broadway, 23rd Floor
San Diego, California 92101-3542

Re: Catholic Healthcare West Retirement Plan and Prior Plans (the "Plans")

Dear Mr. Hoffman:

I am returning herewith a copy of the fully executed Settlement Agreement regarding the above Plan.

If you have any further questions, please do not hesitate to call me.

Very truly yours,

/s/ Joseph DeFranco
Joseph DeFranco, Attorney
Office of the General Counsel
(202) 326-4026

Enclosure

SETTLEMENT AGREEMENT

This Settlement Agreement (the "Agreement"), by and among the Pension Benefit Guaranty Corporation ("PBGC"), the Auburn Regional Community of the Sisters of Mercy of the Americas (the "Auburn Sisters"), the Burlingame Regional Community of the Sisters of Mercy of the Americas (the "Burlingame Sisters"), the Sisters of St. Dominic of the Congregation of the Most Holy Rosary of Adrian, Michigan (the "Adrian Sisters"), Catholic Healthcare West ("Catholic Healthcare West"), and the Catholic Healthcare West Retirement Plan, EIN 94-2932650/100 (the "Catholic Healthcare West Plan") shall be effective as of the last date executed.

The term "Sponsoring Congregations" shall mean collectively the Auburn Sisters, the Burlingame Sisters and the Adrian Sisters. The term "Prior Plans" shall mean, collectively, the plans listed in the attached Exhibit A. The term "Plans" shall mean, collectively, the Catholic Healthcare West Plan and the Prior Plans. The term "Plan Parties" shall mean, collectively, the Sponsoring Congregations, Catholic Healthcare West, and the Catholic Healthcare West Plan. The term "ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §§ 1301-1461.

Recitals

Whereas, the PBGC is a wholly-owned United States Government corporation created under Title IV of ERISA; and

Whereas, the Plan Parties represent that: (1) the Sponsoring Congregations are each a religious community organized under the auspices of the Roman Catholic Church; (2) in furtherance of their religious

purposes, the Sponsoring Congregations have a long history of involvement in caring for the sick with special concern for the health care needs of the sick poor; (3) to further these religious purposes, the Sponsoring Congregations in 1986 established and control Catholic Healthcare West, a California nonprofit corporation to oversee their healthcare system; (4) Catholic Healthcare West, through its corporate divisions, operates Catholic hospitals and health facilities in California, Arizona and Nevada, and is the sole corporate member of a number of hospitals and related health care facilities, including the following (collectively, the "Hospitals"): (a) Mercy Healthcare Arizona, formerly St. Joseph's Hospital and Medical Center, Phoenix, AZ ("Mercy Arizona"); (b) Mercy Healthcare Bakersfield, Bakersfield, CA ("Mercy Bakersfield"); (c) St. John's Regional Medical Center, Oxnard, CA ("St. John's"); (d) Mercy Healthcare San Diego, formerly Mercy Hospital and Medical Center, San Diego, CA ("Mercy San Diego"); (e) Mercy Healthcare Sacramento, Sacramento, CA ("Mercy Sacramento"); (f) Mercy Medical Center Redding, Inc., Redding, CA ("Mercy Redding") and (g) Mercy Medical Center, Mr. Shasta, CA ("Mercy Mt. Shasta"); (5) in 1981, the Auburn Sisters established the Mercy Health Care Organization to coordinate and manage several acute health care facilities in California; (6) in 1984, the Burlingame Sisters established the Mercy Health System to facilitate their health care ministry in the state of California; (7) in 1986, the Mercy Health System and its related health care facilities, with all of its assets and liabilities, and the Mercy Health Care Organization and its related health care facilities, with all of its assets and liabilities, were merged into Healthcare West; (8) until January 1, 1989, Mercy Arizona, Mercy Bakersfield,

St. John's, and Mercy San Diego, each had maintained, and were contributing sponsors to, a defined benefit pension plan for the benefit of certain of their respective employees, which plans are identified in Attachment A as Prior Plan-1 through Prior Plan-4, respectively (i.e., the St. Joseph's Plan, the Mercy Bakersfield Plan, the St. John's Plan, and the Mercy San Diego Plan); (9) until January 1, 1989, the Burlingame Sisters maintained, and was the contributing sponsor of, a defined benefit pension plan for the benefit of certain lay employees of its Mother House ("Mother House"), identified in Attachment A as Prior Plan-5 (i.e., the Mercy Burlingame Plan); (10) until January 1, 1989, Mercy Sacramento and Mercy Redding had maintained, and were contributing sponsors of, a defined benefit pension plan for the benefit of certain of their employees, which plan is identified in Attachment A as Prior Plan-6 (i.e., the Mercy Sacramento Plan); (11) Mercy Mt. Shasta was a community hospital until 1986 when it was acquired by Mercy Mt. Shasta, which effective 1986 began administering and maintaining the Mercy Mt. Shasta Plan, identified in Exhibit A as Prior Plan P-7; (12) each of the Prior Plans was established effective before 1974 by one or more of its contributing sponsors; (13) effective January 1, 1989, Catholic Healthcare West established the Catholic Healthcare West Plan to provide retirement benefits for certain employees, and their beneficiaries, of the Hospitals and the Mother Houses of the Burlingame Sisters and the Auburn Sisters, which have adopted the Catholic Healthcare West Plan; (14) effective January 1, 1989, each of the Prior Plans was merged and consolidated into the Catholic Healthcare West Plan; (15) with respect to the Catholic Healthcare West Plan and the Prior Plans, Catholic Healthcare West has the legal

authority to act for itself, for each of the Hospitals, for the Mother Houses of the Burlingame Sisters and the Auburn Sisters, and for its predecessor corporations, the Mercy Health System and the Mercy Health Care Organization; (16) Catholic Healthcare West is the employer maintaining the Catholic Healthcare West Plan, into which the Prior Plans have merged; (17) each of the Prior Plans was a defined benefit plan; and (18) the Catholic Healthcare West Plan is a defined benefit plan; and

Whereas, the Plan Parties have provided PBGC with a letter from the United States Internal Revenue Service (the "IRS Letter Ruling"), attached hereto as Exhibit B, dated December 8, 1993, ruling that the Catholic Healthcare West Plan is and has been a church plan since January 1, 1989, as that term is defined in Internal Revenue Code ("IRC") § 414(e), 26 U.S.C. § 414(e), and that the Prior Plans P-1, P-2, P-3, P-4, P-5 and P-6 also were church plans within the meaning of IRC § 414(e) from their respective ERISA effective dates until they were merged and consolidated into the Catholic Healthcare West Plan; however, the IRS Letter Ruling made no such ruling as to the Mercy Mt. Shasta Plan (Prior Plan-7), and no refund request is made by the Plan Parties for any premiums paid for the Mercy Mt. Shasta Plan; and

Whereas, the Plan Parties, by letter dated February 10, 1994, on the basis of the IRS Letter Ruling, have made a demand on the PBGC for a refund of all premiums heretofore paid to the PBGC for the Catholic Healthcare West Plan and for the Prior Plans pursuant to ERISA § 4007(a), 29 U.S.C. § 1307(a), except that no premium refund request is made for the Mercy Mt. Shasta Plan; and

Whereas, the Plan Parties hereby certify that the facts set forth in the IRS Letter Ruling dated December 8, 1993 accurately describe the present relationship between the Plans, the various organizations described therein, and the Roman Catholic Church and accurately describe those relationships for all of the years for which refunds are demanded; and

Whereas, the Plan Parties hereby certify that no election has ever been made by any of the Plans pursuant to IRC §410(d), 26 U.S.C. § 410(d), to have the provisions of ERISA apply to any of the Plans as if the Plans were church plans; and

Whereas, the Plan Parties acknowledge their understanding that the Plans, pursuant to ERISA § 4021(b) (3), will not hereafter be covered by the pension insurance program set forth in Title IV of ERISA, and hereby certify that they will not hereafter seek to make an election under the provisions of IRC § 410(d) to have the provisions of Title IV of ERISA apply to the Catholic Healthcare West Plan, or to any of the Prior Plans, as if they were not a church plan; and

Whereas, the PBGC and the Plan Parties, wishing to avoid litigation over this matter, including but not limited to the application of the statute of limitations to the Plan Parties' refund claim, have agreed as to the aggregate total amount of those premiums paid to the PBGC for the Plans, and have agreed to reach a compromise and settlement of the claims in this matter on the terms set forth herein;

NOW, THEREFORE, in consideration of the promises and the representations and mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of

which is hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

1. PAYMENT BY PBGC:

1.1 Subject to the provisions below, PBGC agrees to pay for (1) the Catholic Healthcare West Plan and (2) Prior Plans P-1, P-2, P-3, P-4, P-5, and P-6 a refund in the total aggregate amount of $1,425,350.63.

1.2 Respectively, the refund amount for the Catholic Healthcare West Plan and for each of the Prior Plans for which a refund is made, is:

for the Catholic Healthcare West Plan, $1,167,769.00;

for the St. Joseph's Plan, $81,874.00;

for the Mercy Bakersfield Plan, $32,647.25;

for the St. John's Plan, $8,609.80;

for the Mercy San Diego Plan, $25,283.61;

for the Mercy Burlingame Plan, $1,043.10; and

for the Mercy Sacramento Plan, $108,123.87.

1.3 The payment to be made pursuant to paragraph 1.1 of this Agreement shall be made on or before the twentieth business day following receipt by the PBGC of two copies of this Agreement fully executed by the Plan Parties, and shall be made by wire transfer, for credit to the Catholic Healthcare West Plan, addressed as follows:

Bankers Trust Company, NY, NY, 10008,
ABA Routing No. 021 001033
for credit to Account No. 99-097-014 P.A.F.S. West
for further credit to trust account of
Catholic Healthcare West Retirement Plan, Account No. 107041
Bank contact: Allison Fonti, (213) 620-8466

2. DISCHARGE OF LIABILITY AND WITHDRAWAL OF CLAIMS:

2.1 Upon execution of this Agreement and receipt by the Catholic Healthcare West Plan of the amount specified in paragraph 1.1 above, any liability of the PBGC for the return of any and all premiums heretofore paid to the PBGC for the Catholic Healthcare West Plan and for the Prior Plans (and of interest and penalties paid to the PBGC relating to premiums for the Catholic Healthcare West Plan and for the Prior Plans, if any) will have been paid in full, and PBGC shall have no further liability to any of the Plan Parties or to the Catholic Healthcare West Plan or to any of the Prior Plans, or to any person, organization or church with respect thereto.

3. AUTHORIZATIONS:

3.1 The Plan Parties represent and warrant that the execution, delivery and performance of this Agreement have been duly approved by all necessary corporate, Plan and church action, and this Agreement constitutes the valid and binding agreement of the Plan Parties and is enforceable in accordance with its terms.

3.2 PBGC represents and warrants that the execution, delivery and performance of this Agreement have been duly approved by all necessary corporate action of the PBGC, and this Agreement constitutes the valid and binding agreement of the PBGC and is enforceable in accordance with its terms.

4. BENEFIT AND ASSIGNMENT: This Agreement shall be binding upon and inure to the benefit of the parties, their successors, agents, and assigns. Nothing in this Agreement is intended or shall be construed to confer upon or give to any person other than the

parties hereto, and their successors and assigns, any rights or remedies under or by reason of this Agreement.

5. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all prior agreements, negotiations, and discussions, whether oral or written, of the parties and there are no warranties, representations, or other agreements between the parties in connection with the subject matter hereof except as specifically set forth herein.

IN WITNESS WHEREOF, the parties hereto have caused this document to be executed by the duly authorized official of PBGC and the duly authorized officers of the Plan Parties whose signatures appear below on the date appearing opposite their names.

PENSION BENEFIT GUARANTY CORPORATION

DATED: 9/25/95 By: /s/ Terrence M. Deneen
Terrence M. Deneen
Deputy General Counsel

CATHOLIC HEALTHCARE WEST

DATED: 9/22/95 By: /s/ Larry Wilson
Larry Wilson, Executive Vice President and Chief Operating Officer

CATHOLIC HEALTHCARE WEST RETIREMENT PLAN, on its behalf and on behalf of the Prior Plans listed in Exhibit A attached hereto

DATED: 9/22/95 By: /s/ Vincent Schmitz
Vincent Schmitz, Chairperson
CHW Retirement Committee
Plan Administrator

AUBURN REGIONAL COMMUNITY OF
THE SISTERS OF MERCY

DATED: 9/22/95 By: /s/ Sister Susan McCarthy, RSM
Sister Susan McCarthy, RSM
Regional President, Sisters of Mercy" Auburn Regional Community for refunds of premiums relating to the Catholic Healthcare West Retirement Plan and Merged Prior Plans

BURLINGAME REGIONAL COMMUNITY OF
THE SISTERS OF MERCY

DATED: 9/22/95 By: /s/ Sister Phyllis Hughes, RSM
Sister Phyllis Hughes RSM
Regional President, Sisters of Mercy Burlingame Regional Community

SISTERS OF ST. DOMINIC OF
THE CONGREGATION OF THE MOST HOLY
ROSARY OF ADRIAN, MICHIGAN

DATED: 9/22/95 By: /s/ Sister Patricia Siemen, OP
Sister Patricia Siemen, OP
Vicaress, General Councilor
Adrian Dominican Sisters

EXHIBIT 4(a)

Catholic Healthcare West Retirement Plan

CATHOLIC HEALTHCARE WEST RETIREMENT PLAN

(As Amended and Restated Effective Januarys 1, 1989)

RETIREMENT PLAN DOCUMENT

Effective: January 1, 1989
Originally Executed: December 30, 1988
Amendment/Restatement Executed: November 16, 1990

CATHOLIC HEALTHCARE WEST RETIREMENT PLAN

(As Amended and Restated Effective January 1, 1989)

TABLE OF CONTENTS

ARTICLE NO.	DESCRIPTION	PAGE
1	NAME AND PURPOSE	1-1
	1.1 Plan Name	1-1
	1.2 Purpose	1-1
	1.3 Result of Merging of Plans	1-1
	1.4 Plan Does Not Affect Employment Relationship	1-2
2	DEFINITIONS	2-1
3	ELIGIBILITY, PARTICIPATION AND BENEFICIARY DESIGNATION	3-1
	3.1 Eligible Employee	3-1
	3.2 Plan Entry and Reentry	3-1
	3.3 Suspended Participation	3-2
	3.4 Beneficiary Designation	3-3
4	SERVICE	4-1
	4.1 Eligibility Service	4-1
	4.2 Vesting Service	4-1
	4.3 Benefit Service	4-1
	4.4 Break in Service Rules	4-3
	4.5 Crediting of Hours of Service	4-3
	4.6 Hours of Service Equivalency	4-4
	4.7 Crediting of Hours Subject to Department of Labor Regulations	4-5
	4.8 Employment within the National Mercy System	4-5
5	RETIREMENT BENEFITS	5-1

5.1 Accrued Monthly Benefit 5-1
5.2 Minimum Benefit Under Prior Plan Formulas 5-3
5.3 Normal Retirement Benefit 5-3
5.4 Early Retirement Benefit 5-3
5.5 Late Retirement Benefit 5-4
5.6 Adjustment in Benefits for Participants With Prior Distributions 5-4
5.7 Suspension of Benefits 5-5
6 DEATH AND DISABILITY BENEFITS 6-1
6.1 Death Benefits 6-1
6.2 Disability Benefits 6-2
7 VESTING AND TERMINATION BENEFITS 7-1
7.1 Full Vesting Upon Normal Retirement .. 7-1
7.2 Vesting Based on Service 7-1
7.3 Termination Benefits 7-1
7.4 No Divestment 7-2
7.5 Forfeiture of Benefits 7-2
8 DISTRIBUTIONS 8-1
8.1 Normal Form of Benefit 8-1
8.2 Automatic Form of Benefit 8-1
8.3 Election of Optional Forms 8-1
8.4 Optional Forms of Benefit 8-2
8.5 Limitations Regarding When Distribution Can Be Made 8-2
8.6 Small Amounts 8-3

8.7 Participant Information and Elections ... 8-3
8.8 Distribution to Minors or Incompetents 8-4
9 SECTION 415 LIMITATIONS 9-1
9.1 Special Definitions Used in Determining Limitations 9-1
9.2 Limitation for Defined Benefit Plans 9-3
9.3 Combined Plan Limits 9-4
9.4 Super Top-Heavy Rules 9-5
10 TOP-HEAVY RULES 10-1
10.1 Definitions 10-1
10.2 Minimum Accrued Monthly Benefit 10-3
10.3 Top Heavy Vesting 10-3
10.4 Aggregation of Plans 10-3
11 EMPLOYER CONTRIBUTIONS 11-1
11.1 Employer Contribution Requirements ... 11-1
11.2 Return of Employer Contributions 11-1
12 FIDUCIARY RESPONSIBILITY 12-1
12.1 Named Fiduciaries 12-1
12.2 Fiduciary Standards 12-1
12.3 Fiduciaries Liable for Breach of Duty ... 12-1
12.4 Authority of Named Fiduciaries 12-2
12.5 Fiduciaries Are Not to Engage in Prohibited Transactions 12-3
13 RETIREMENT PLAN COMMITTEE 13-1
13.1 Appointment of Retirement Plan Committee 13-1
13.2 Operating Rules 13-1

13.3 ERISA Plan Administrator and Its Duties 13-1

13.4 Committee Powers 13-2

13.5 Committee to Establish Funding Policy 13-2

13.6 Committee Duties 13-2

13.7 Committee May Retain Advisors 13-3

13.8 Advisor's Fees and Plan Expenses 13-3

13.9 Claims Procedure 13-3

13.10 Committee Indemnification 13-4

14 AMENDMENT, TERMINATION AND MERGER 14-1

14.1 Trust Irrevocable 14-1

14.2 Board May Amend Plan and Trust Agreement 14-1

14.3 Full Vesting upon Termination or Partial Termination 14-2

14.4 Plan Termination 14-2

14.5 Allocation of Assets upon Plan Termination 14-2

14.6 Restrictions on Benefits Payable to 25 Highest Paid Employees 14-2 14.7 Employer Contributions Conditioned upon Initial Approval of Plan 14-5

14.8 Nonreversion of Assets 14-5

14.9 Merger or Transfer of Assets 14-5

15 MISCELLANEOUS 15-1

15.1 State Jurisdiction 15-1

15.2 Construction 15-1
15.3 No Assignment 15-1
15.4 Severability 15-1
16 ADOPTION OF THE PLAN BY EMPLOYER AND AFFILIATES 16-1
17 INSURANCE CONTRACT 17-1
17.1 Application If No Trustee 17-1
17.2 Definitions 17-1
17.3 Provisions If No Trustee 17-1
18 EMPLOYEE CONTRIBUTIONS 18-1
18.1 Employee Contribution Accounts 18-1
18.2 Required Employee Contributions 18-1
18.3 Interest on Employee Contribution Accounts 18-1
18.4 Employee Contribution Account is a Minimum Benefit for Employees of San Diego, Mercy Services San Diego or St. John's 18-2
18.5 Employee Contribution Account is an Additional Benefit for Employees of St. Joseph's, Bakersfield or Mt. Shasta 18-2
18.6 Withdrawal of Employee Contribution Account 18-2
APPENDIX A PRIOR PLANS
APPENDIX B EMPLOYER AND AFFILIATES
APPENDIX C SIGNATURE PAGE OF EMPLOYER AND AFFILIATES

CATHOLIC HEALTHCARE WEST RETIREMENT PLAN
(As Amended and Restated Effective January 1, 1989)

THIS PLAN DOCUMENT is made and entered into by the Plan Sponsor, CATHOLIC HEALTHCARE WEST.

This Plan Document constitutes an amendment and complete restatement of the original Plan Document entered into by Catholic Healthcare West on December 30, 1988. The purpose of this amendment and restatement is to simplify the text of the Plan Agreement by moving provisions applicable to the Employer and each Affiliate from the Appendix to the body of the document. This amendment and restatement also incorporates certain changes required by the Tax Reform Act of 1986 and other recent legislation.

ARTICLE 1
NAME AND PURPOSE

1.1 Plan Name

The Plan set forth herein shall be designated as the CATHOLIC HEALTHCARE WEST RETIREMENT PLAN.

1.2 Purpose

The Plan is created and maintained to provide retirement benefits for Eligible Employees of the Employer and their Beneficiaries and is intended for their exclusive benefit as a Plan which qualifies under Code section 401(a).

1.3 Result of Merging of Plans

The Catholic Healthcare West Retirement Plan is the new plan that resulted from the merger on January 1, 1989 of the seven Prior Plans, set forth in Appendix A.

1.4 Plan Does Not Affect Employment Relationship

Nothing in the Plan or Trust shall be deemed a contract between the Employer and any Employee, nor shall the rights or obligations of the Employer or any Employee to continue or terminate employment at any time be affected hereby.

ARTICLE 2
DEFINITIONS

The following words and phrases used in this Plan Agreement have the following meanings, unless a different meaning is required by the context:

2.1 "Accrued Monthly Benefit" is defined in Article 5.

2.2 "Actuarial Equivalent" means a payment or series of payments mathematically equivalent (equal in value) to another amount as computed on the basis described below:

> For purposes of converting the normal form of pension to the automatic form or any optional form as described in Article 8, except a lump sum, Actuarial Equivalence shall be based on the 1984 Unisex Pension Mortality Table set back 4 years and 8.0% interest compounded annually.
>
> For purposes of converting the normal form of pension to a lump sum, as described in Article 8, Actuarial Equivalence shall be determined using the 1984 Unisex Pension Mortality Table set back 4 years and the graded (deferred annuity) interest

rates promulgated by the Pension Benefit Guaranty Corporation effective for plans terminating on the first day of the calendar year in which the distribution, or determination, is made.

2.3 "Affiliate" means a corporation, trade or business which is, together with the Employer, a member of a controlled group of corporations, a trade or business under common control or an affiliated service group within the meaning of Code sections 414(b), (c) or (m). Solely for the purposes of Article 9, the application of Code sections 414 (b), (c) or (m) is modified by Code section 415(h).

2.4 "Beneficiary" means any person designated by a Participant (with Spousal Consent, if applicable) to receive benefits after the Participant's death.

2.5 "Benefit Commencement Date" means the first day of the first period for which an amount is payable as an annuity, or if the benefit is not payable as an annuity, the first day on which all events have occurred which entitle a Participant to such benefit.

Notwithstanding the foregoing, Benefit Commencement Date does not mean the date benefits commence under Section 8.5.2., for employees who work beyond age 'Board"

2.6 "(Years of) Benefit Service" is defined in Article 4.

2.7 'Board" means the Board of Directors of CATHOLIC HEALTHCARE WEST.

2.8 "Code" means the Internal Revenue Code of 1986, as amended. Reference to specific Code sections shall include such section, any valid regulation promulgated thereunder, and any comparable provision of

any future legislation amending, supplementing or superseding such section.

2.9 "Committee" means the Retirement Plan Committee under Article 13.

2.10 (a) "Compensation" means a Participant's total W-2 Compensation in any Plan Year,

plus

salary deferred under a tax-sheltered annuity program under Code Section 403(b), or a Code Section 125 medical or childcare reimbursement program.

Notwithstanding the foregoing, for employees of Auburn, Mercy Healthcare Sacramento, Mercy Services Sacramento and Mercy Foundation,

"Compensation" means a Participant's Compensation as described

above,

minus

severance pay, overtime pay, standby pay, call back pay, premium pay, paid time of buy back pay, shift differentials or any other compensation paid in addition to base wages.

In addition, Compensation taken into account under the Plan shall not exceed $200,000, adjusted for changes in the cost of living as provided in sections 401(a)(17) and 415(d) of the Code, for the purpose of determining a Participant's Accrued Benefit on January 1, 1989 or later.

(b) "Final Average Compensation" means the highest annualized average Compensation of a Participant over sixty (60) consecutive completed calendar

months out of his or her last ten (10) years of employment.

(i) Rule permitting prorating of Compensation

Compensation in a period of consecutive completed calendar months may be determined by prorating Compensation in a longer period containing such months. For example, suppose an Employee terminated on April 15, 1990 with Compensation of $10,500 in the period January 1 through April 15, 1990. Compensation in the period January 1 through March 31, 1990 may be determined by multiplying $10,500 by the prorating fraction, 3 divided by 3.5, with the result being $9,000.

(ii) Special rules for Employees with lapses in Vesting Service

For purposes of the definition of Final Average Compensation, any calendar year or partial calendar year, and any compensation earned during such year or partial year, during which the Employee did not earn Vesting Service, shall be disregarded. Specifically, for purposes of the definition of Final Average Compensation, two periods of employment separated by such a lapse in Vesting Service shall be deemed to be consecutive.

(c) "Social Security Covered Compensation" means the average of the contribution and benefit bases in effect under section 230 of the Social Security Act for each year in the 35-year period ending with the year in which the Participant attains the social security retirement age (as defined by Code Section 415(b)(8)). For purposes of this Article 2.10(c), the determination for any year preceding the year in which the

Participant attains the social security retirement age shall be made by assuming that there is no increase in the bases described above, after the determination year and before the Participant attains the social security retirement age.

(d) "Excess Compensation" means the excess, if any, of a Participant's Final Average Compensation over his or her Social Security Covered Compensation.

2.11 "Date of Hire" means the date on which an Employee first performs an Hour of Service for the Employer or an Affiliate.

2.12 "Disability" means the permanent incapacity of a Participant, by reason of physical or mental illness, to engage in any occupation or employment for wages or profit, resulting in the termination of his or her service with the Employer, provided that such Participant is eligible for and is receiving disability payments under the Social Security Act.

2.13 "Effective Date" means January 1, 1989.

2.14 "Eligible Employee" is defined in Article 3.

2.15 "Eligibility Service" is defined in Article 4.

2.16 "Employee" means any person in the service of the Employer or an Affiliate including officers, but excluding members of the Board of Directors of the Employer who are not in the Employer's employ in any other capacity. Employee includes any person who is not directly employed by the Employer but has provided service to the Employer on a substantially full-time basis for a year pursuant to a leasing agreement, unless such person is covered under a plan of the leasing organization which meets the requirements of Code Section 414(n)(5).

2.17 "Employer" means CATHOLIC HEALTHCARE WEST and such of its Affiliates, successors or assigns as may expressly adopt this Plan. An Affiliate shall be designated as an Employer as of the date the Affiliate adopts this Plan with the approval of Catholic Healthcare West. As of the Effective Date, the Affiliates listed in Appendix B shall each be designated as an Employer as evidenced by their execution of this Plan Agreement.

2.18 "Entry Date" means the first day on which an Employee commences participation in the Plan as provided in Article 3.

2.19 "ERISA" means the Employee Retirement Income Security Act of 1974. Reference to specific sections of ERISA shall include such section, any regulation promulgated thereunder and any comparable provision of future legislation amending, supplementing or superseding such section.

2.20 "Final Average Compensation: is defined in Article 2.10(b).

2.21 "Leave of Absence" means a period of an Employee's absence from active employment which:

(a) Was authorized by the Employer or an Affiliate, provided that the Employee returns to active employment for at least 30 days immediately after the expiration of the Leave of Absence, unless the failure to return is attributable to the Employee's retirement, Disability or death; or

(b) Occurred because of military service in the armed forces of the United States, provided that the Employee returns to active employment within 90 days after first becoming eligible for military discharge or within any longer period during which he

or she retains reemployment rights under federal law.

2.22 "Normal Retirement Age" means age 65.

2.23 "Normal Retirement Date" means the first day of the month coincident with or next following the Participant's attainment of Normal Retirement Age.

2.24 "Parental Leave" means a period of an Employee's absence from active employment because of the Employee's pregnancy, the birth of his or her child, placement with the Employee of a child for adoption, or for the caring of such child after birth, as defined in Code Section 410(a)(5).

2.25 "Participant" means any Employee who has qualified for participation in the Plan in accordance with Article 3, or any former Employee who is entitled to receive benefit payments under the Plan.

2.26 "Plan" means the CATHOLIC HEALTHCARE WEST RETIREMENT PLAN.

2.27 "Plan Year" means the accounting year of the Plan which is the calendar year. Plan Year includes calendar years prior to the Effective Date.

2.28 "Prior Plan" means each of the seven retirement plans set forth in Appendix A of this Plan Agreement.

2.29 "Qualified Joint and 50% to Surviving Spouse Annuity" means an annuity for the life of both the Participant and spouse. If the Participant dies first, the monthly pension payable to the spouse shall be 50% of the monthly pension payable to the Participant.

2.30 "Social Security Covered Compensation" is defined in Article 2.10(c).

2.31 "Sponsor" means CATHOLIC HEALTHCARE WEST, as sole sponsor of this retirement plan.

2.32 "Spousal Consent" means the written agreement of a Participant's spouse to the election of a Participant regarding the designation of a specific Beneficiary and form of benefits to be paid from the Plan. Such agreement must acknowledge the effect of the election and be witnessed by a Notary Public or a Plan representative designated for such purposes by the Committee. Such agreement shall only apply with respect to that spouse. The Committee may determine that Spousal Consent need not be obtained because the spouse cannot be located or such other circumstances as permitted by regulation.

2.33 "Trust" means the legal entity created by the Trust Agreement as part of the Plan.

2.34 "Trust Agreement" means the agreement entered into by the Trustee and the Employer, called the Catholic Healthcare West Retirement Plan Trust Agreement.

2.35 "Trust Fund" means all property and income held by the Trustee under the Trust Agreement.

2.36 "Trustee" means the original Trustee appointed by the Board, and any duly appointed successor, as provided for in the Trust Agreement. The Board shall have the authority to appoint the original Trustee for the Plan and any successor.

2.37 "(Years of) Vesting Service" is defined in Article 4.

ARTICLE 3
ELIGIBILITY. PARTICIPATION AND BENEFICIARY DESIGNATION

3.1 Eligible Employee

"Eligible Employee" means any Employee, excluding the following:

(a) any Employee whose compensation and conditions of employment are established by the terms of a collective bargaining agreement to which the Employer is a party and which does not specifically provide for coverage of such Employee under the Plan,

(b) any Employee who is a member of the order of the Sisters of Mercy,

(c) any per diem employee of St. John's,

(d) any employee of St. Joseph's who is:

- not regularly scheduled to work full or part time in a benefit-eligible position,
- a resident,
- a student,
- an employee of Mercy Services Corporation (Phoenix), or
- an employee who works on an on-call status.

(e) as of January 1, 1990, any non-exempt employee of Mercy Services San Diego who was not participating in the Plan on December 31, 1989.

(f) any Employee of an Affiliate who has not adopted this Plan.

* * *

ARTICLE 11
EMPLOYER CONTRIBUTIONS

11.1 Employer Contribution Requirements

For each Plan Year, the Employer shall make contributions to the Trust in such amounts as may be determined by the Committee to fund the benefits provided in this Plan for Participants. Contributions for each Plan Year shall be made in cash and shall be paid to the Trustee on or before the deadline including extensions, for filing the Employer's federal income tax return for such year. For each Plan Year, contributions shall be made by the time and in at least the amount necessary to satisfy the minimum funding standards of Code section 412.

11.2 Return of Employer Contributions

The Employer shall be entitled to recover within one year of the applicable event, Employer contributions (exclusive of investment gain, but reduced by investment loss):

(a) Made by mistake of fact; or

(b) Which were conditioned upon the Plan's initial qualified status under Code section 401(a) if the Employer is unable to obtain favorable advance approval, or

(c) For which a deduction was disallowed under Code Section 404(a).

ARTICLE 12
FIDUCIARY RESPONSIBILITY

12.1 Named Fiduciaries

The authority to control and manage the operation and administration of the Plan shall be allocated as provided in the Plan and Trust Agreement among the Board, the Committee and the Trustee, all of whom are named fiduciaries under ERISA. Any person or group of people may serve in more than one fiduciary

capacity with regard to the Plan. In addition, procedures for the appointment of another fiduciary, an investment manager, are set forth in the Trust Agreement.

12.2 Fiduciary Standards

Each fiduciary shall discharge its duties with respect to the Plan and Trust Agreement solely in the interest of the Participants and Beneficiaries and:

(a) For the exclusive purpose of providing benefits to Participants and their Beneficiaries;

(b) With the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(c) By diversifying the investments of the Trust Fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

12.3 Fiduciaries Liable for Breach of Duty

A fiduciary may be liable, as provided in ERISA, for any breach of his or her fiduciary responsibilities. In addition, a fiduciary under this Plan may be liable for a breach of fiduciary responsibility of another fiduciary under this Plan as provided under ERISA section 405.

12.4 Authority of Named Fiduciaries

12.4.1 Board Authority. The Board shall have the authority to amend and terminate the Plan, to appoint and remove members of the Committee and to appoint and remove a Trustee.

12.4.2 Committee Authority. The Committee shall have the authority to:

(a) Determine Retirement, Termination, Disability and Death Benefits and the Actuarial Equivalent of optional forms of benefits in accordance with the terms of this Plan Document;

(b) Furnish, and correct errors in, statements of benefits;

(c) Determine that the method, timing and media of distributions are in accordance with the requirements of Article 8, and direct the Trustee with respect to distributions to Participants and Beneficiaries;

(d) Direct distribution of the interests of incompetents and minors;

(e) Construe the Plan and determine questions thereunder;

(f) Establish a funding policy and direct the Trustee with respect to its duties and investments; and

(g) Appoint and delegate duties to an investment manager and employ advisors and assistants.

12.4.3 Trustee Authority. The Trustee shall have the authority to establish the fair market value of the Trust Fund, to employ advisors, agents and counsel, to hold the Trust assets and to render accounts of its administration of the Trust.

12.5 Fiduciaries Are Not to Engage in Prohibited Transactions

A fiduciary shall not cause the Plan to engage in a transaction if he or she knows or should know that

such transaction constitutes a prohibited transaction under ERISA section 406 or Code section 4975, unless such transaction is exempted under ERISA section 408 or Code section 4975.

ARTICLE 13
RETIREMENT PLAN COMMITTEE

13.1 Appointment of Retirement Plan Committee

The Board shall appoint an Retirement Plan Committee to manage and administer this Plan in accordance with the provisions hereof, each member to serve for such term as the Board may designate or until a successor member has been appointed or until removal by the Board. Vacancies due to resignation, death, removal or other cause shall be filled by the Board.

13.2 Operating Rules

The Committee shall act by agreement of a majority of its members, either by vote at a meeting or in writing without a meeting. By such action, it may authorize one or more members to execute documents on its behalf and direct the Trustee in the performance of its duties hereunder. The Trustee, upon written notification of such authorization, shall accept and rely upon such documents until notified in wilting that the authorization has been revoked by the Committee. The Trustee shall not be deemed to be on notice of any change in the membership of the Committee unless notified in writing. A member of the Committee, who is also a Participant hereunder, shall not vote or act upon any matter relating solely to himself. In the event of a deadlock or other situation which prevents agreement of a majority of the Committee members, the matter shall be decided by the Board.

13.3 ERISA Plan Administrator and Its Duties

The Committee is the Plan Administrator under ERISA and shall have the duty and authority to comply with those reporting and disclosure requirements of ERISA which are specifically required of the Plan Administrator. The Committee shall keep on file a copy of this Plan and Trust, including any subsequent amendments, all annual and interim reports of the Trustee and the latest annual report, plan description and summary plan description required under Title I of ERISA for examination by Participants during business hours. The Committee is the agent for the service of legal process.

13.4 Committee Powers

The Committee shall have the power and duty to do all things necessary or convenient to effect the intent and purpose of this Plan whether or not such powers and duties are specifically set forth in Article 13 or elsewhere. Decisions of the Committee made in good faith upon any matters within the scope of its authority shall be final and binding on the Employer, the Trustee, Participants, their Beneficiaries and all others. The Committee, at all times, in making and carrying out its decisions and directions, shall act in a uniform and nondiscriminatory manner and may from time to time prescribe and modify uniform rules of interpretation and administration.

13.5 Committee to Establish Funding Policy

The Committee shall establish a funding policy for the Trust Fund bearing in mind both the short-run and long-run needs and goals of the Plan. The Committee shall review such policy prior to the end of each Plan Year for its appropriateness under the circumstances then prevailing. The funding policy shall be communicated to the investment manager of

the Trust Fund, if one shall have been appointed, so that the investment policy of the Trust Fund can be coordinated with Plan needs.

13.6 Committee Duties

Compliance with the eligibility requirements shall be determined by the Committee, which shall also inform each Employee of his or her becoming a Participant. The Committee shall provide each Participant with a summary plan description not later than 90 days following the later of the date he or she enters the Plan or the date the Plan is adopted, or within such other period as may be prescribed by law or regulation.

13.7 Committee May Retain Advisors

With the approval of the Board, the Committee may from time to time or on a continuing basis, retain such agents or advisors including, specifically, attorneys, accountants, actuaries, investment counsel, consultants and administrative assistants, as it considers necessary to assist it in the proper performance of its duties.

13.8 Advisor's Fees and Plan Expenses

Committee members shall serve without compensation for Committee service, but shall be paid for all reasonable expenses. All reasonable expenses of the Plan or the Committee, or the counsel and advisors retained by the Committee, shall be paid by the Employer. At the sole discretion of the Committee, the Committee may direct the Trustee to pay such expenses from the Trust Fund.

13.9 Claims Procedure

13.9.1 Claim May Be Submitted. In the event a Participant or Beneficiary disagrees with the Committee's determination of his or her right to

Plan benefits, he or she may review pertinent documents and submit a written claim for benefits which should include the important issues regarding why the claim is being made.

13.9.2 Committee Response If It Denies Claim. If the claim is denied in whole or in part, the Committee shall give an understandable, written response covering:

(a) the specific reasons why the claim is being denied, with references to the pertinent Plan provisions, and

(b) the steps the claimant would need to take to get a final review and the information which would be necessary (and the reasons why) to perfect his or her claim.

13.9.3 Claimant May Appeal Denial. The claimant may make a written appeal of the Committee's initial decision and the Committee shall respond in the same form as it did in its initial decision.

13.9.4 Time Limits. The claimant's claim and the Committee's decisions shall be made in a timely manner, subject to the following time table:

Action	Maximum Response Time
Claimant's initial claim	60 days after Committee determines benefit
Committee's initial review	90 days after claim is filed
Claimant's appeal of review	60 days after initial review
Committee's final decision	60 days after appeal (unless special circumstances require an extension of time for processing, in which case a decision shall be rendered as soon as possible, but not later than 120 days after receipt of the claimant's appeal of review.)

13.9.5 Time Limit Extensions. The Committee may extend its maximum response time to twice the initial length of time if it responds to the claimant within the normal time by giving an explanation of why an extension is needed and when its decision will be forthcoming.

13.9.6 Exhaustion of Remedies. In the event of any dispute over benefits under this Plan, all remedies available to the disputing individual under this Article 13.9 must be exhausted before legal recourse of any type is sought.

13.10 Committee Indemnification

To the fullest extent permitted by law, the Employer agrees to indemnify, defend and hold harmless the members of the Committee, individually and collectively, against any liability whatsoever for any action taken or omitted by them in good faith in connection with this Plan and Trust or their duties hereunder and for any expenses or losses for which they may become

liable as a result of any such actions or non-actions unless resultant from their own willful misconduct; and the Employer may purchase insurance for the Committee to cover any of their potential liabilities with regard to the Plan and Trust.

ARTICLE 14
AMENDMENT, TERMINATION AND MERGER

14.1 Trust Irrevocable

The Trust shall be irrevocable but shall be subject to amendment and termination as provided in this Article 14.

14.2 Board May Amend Plan and Trust Agreement

The Board has the right to amend this Plan and the Trust Agreement to any extent and in any manner that it may deem advisable. The Employer, the Trustee, all Participants, their Beneficiaries and all other persons having any interest hereunder shall be bound by any such amendment; provided, however, that no amendment shall:

(a) Cause or permit any part of the principal or income of the Trust to revert to the Employer or to be used for, or be diverted to, any purpose other than the exclusive benefit of Participants or their Beneficiaries;

(b) Change the duties or liabilities of the Trustee without its written assent to such amendment;

(c) Reduce the then Accrued Monthly Benefit of any Participant or eliminate payment in an Actuarially Equivalent optional form. If an amendment changes the actuarial assumptions used in determining the Actuarial Equivalent, the Actuarial Equivalent of a Participant's Accrued Monthly Benefit shall not be less than the Actuarial Equivalent

of his or her Accrued Monthly Benefit as of the change date, determined using the prior assumptions, provided that this shall not preclude a decrease in the Actuarial Equivalent of his or her Accrued Monthly Benefit due to a decrease in Compensation; or

(d) Eliminate or reduce a retirement-type subsidy or an early retirement benefit attributable to a Participant's Accrued Monthly Benefit at the time of the Amendment.

14.3 Full Vesting upon Termination or Partial Termination

The Board has established the Plan with the bona fide intention and expectation that the Plan will continue indefinitely and that it will be able to make its contributions indefinitely, but the Board shall be under no obligation to continue to maintain the Plan for any given length of time and may, in its sole and absolute discretion, terminate the Plan at any time without any liability whatsoever. In the event of the termination or partial termination of this Plan, the Accrued Monthly Benefits of Employees affected by such termination or partial termination shall be fully vested and nonforfeitable. Notwithstanding the foregoing, the Employer shall have no liability to any Participant to provide benefits in addition to those which would be provided by the assets of the Trust and the Pension Benefit Guaranty Corporation in the event of the termination of the Plan.

14.4 Plan Termination

The Plan shall terminate upon the date specified in a written notice of the termination of the Plan, executed by the Board and delivered to the Trustee.

14.5 Allocation of Assets upon Plan Termination

Upon the termination of this Plan and after payment of all expenses of the Trust, including any compensation then due the Trustee and agents of the Committee, the Committee shall cause the assets of the Plan to be allocated among the Participants and Beneficiaries in accordance with section 4044 of ERISA. In the event that there are residual assets after satisfaction of all liabilities of the Plan to Participants and their Beneficiaries, by reason of erroneous actuarial computation such residual assets shall be distributed to the Employer.

14.6 Restrictions on Distributions for 25 Highest Paid Employees

Notwithstanding any contrary provision of this Plan, the limitations specified in Section 14.6.1 below will apply to any employee described in Section 14.6.2 if this Plan is terminated unless either, (i) at the time of termination, the value of Plan assets equals or exceeds 110% of the value of current liabilities, as defined in Section 412(l)(7) of the Code, or (ii) the value of benefits for a particular employee described in Section 14.6.2 is less than 1% of the value of current liabilities.

14.6.1 The annual payments to an employee described in Section 14.6.2 are restricted to an amount equal to the payments that would be made on behalf of the employee under a single life annuity that is the actuarial equivalent of the sum of the employee's accrued benefit and the employee's other benefits under the Plan, if any.

14.6.2 The employees whose benefits are restricted by this Section 14.6 include the 25 highest paid

Highly Compensated Employees and Highly Compensated Former Employees, as those terms are defined in Section 414(g) of the Code, who are participants under this Plan. If component plans within the meaning of IRS Regulations 401(a)(4)-9 are used, then this definition applies to the 25 highest compensated highly compensated employees within such component Plan group.

14.7 Employer Contributions Conditioned upon Initial Approval of Plan

The Employer may condition its obligation to make contributions upon the Plan being initially qualified under Code section 401(a) and the Trust being exempt from taxation under Code section 501(a). The Employer shall obtain advance approval from the United States Department of the Treasury with respect to the tax qualified and exempt status of the Plan and Trust initially, and with respect to any amendment the Employer determines may adversely affect this status. However, prior to the receipt of any such approval, no Participant or his or her Beneficiary shall have any vested interest in, or be entitled to, any benefit payments based on Employer contributions made contingent upon such approval; provided that upon receipt of such notification, such vesting and entitlement shall be retroactive to the date of occurrence in accordance with the other provisions of this Plan. 14.8 Nonreversion of Assets Except as provided in Articles 11.2, 14.5, 14.7 and 15.3, in no event shall any part of the principal or income revert to the Employer or be used for or diverted to any purpose other than the exclusive benefit of Participants or their Beneficiaries.

14.9 Merger or Transfer of Assets

In no event shall this Plan be merged or consolidated with any other plan, nor shall there be any transfer of assets or liabilities from this Plan to any other plan unless immediately after such merger, consolidation or transfer, each Participant's benefits, if such other plan were then to terminate, are at least equal to or greater than the benefits which the Participant would have been entitled to had this Plan been terminated immediately before such merger, consolidation or transfer.

ARTICLE 15
MISCELLANEOUS

15.1 State Jurisdiction

All matters respecting the validity, effect, interpretation and administration of this Plan shall be determined in accordance with the laws of the State of California except where preempted by ERISA or other federal statutes.

15.2 Construction

Wherever appropriate, words used herein in the singular may include the plural or the plural may be read as the singular, and the masculine may include the feminine. Headings are inserted for reference only and constitute no part of the construction of this Plan.

15.3 No Assignment

No Participant or Beneficiary may assign, alienate, encumber, attach, garnish, execute, sequester, or transfer by operation of law in bankruptcy, insolvency or other legal process his or her interest in the Plan, except that the Committee may comply with a qualified domestic relations order pursuant to Code section 401(a)(13).

15.4 Severability

If any provisions of this Plan and Trust shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of the Plan shall continue to be fully effective.

ARTICLE 16
ADOPTION OF THE PLAN BY EMPLOYER AND AFFILIATES

16.1 The purpose of this Article 16 is to describe the terms and conditions under which an Affiliate may adopt and become an Employer under this Plan for the benefit of its Eligible Employees.

16.2 Any Affiliate may, with the written consent of Catholic Healthcare West, become an Employer under this Plan Agreement by executing a subscription agreement under which it shall agree:

(a) To be bound by all the provisions of the Plan and Trust in the manner set forth herein;

(b) To pay its share of the expenses of the Plan and Trust as they may be determined from time to time in the manner specified in this Article 16; and

(c) To provide Catholic Healthcare West, the Committee and the Trustee with full, complete and timely information on all matters necessary to them in the operation of this Plan and Trust.

In lieu of executing a subscription agreement, an Affiliate may become an Employer under this Plan Agreement by its execution of this Plan Agreement.

16.3 In the event of the adoption of this Plan by an Affiliate the following shall apply with respect to the participation of such Affiliate as an Employer hereunder:

(a) All the terms and conditions of the Plan as set forth in the preceding Articles 1 through 15 shall apply to the participation of such Affiliate and its Employees in the same manner as set forth for any Employer and its Employees.

(b) In the operation of the Plan with respect to such Affiliate the term "Effective Date" shall mean the effective date set forth in this Agreement or such other date as specified in such Affiliate's subscription agreement.

16.4 Any Employer may at any time elect to terminate its participation in this Plan. Termination of the participation of any Employer shall not affect the participation of any other Employer nor terminate the Plan with respect to them and their Employees; provided, however, that if Catholic Healthcare West terminates its participation, then the Plan itself shall be deemed to be terminated.

16.5 Each Employer shall be liable for and shall pay its fair share of the expenses of operating the Plan and Trust, including its share of any Trustee's fees. The amount of such charges to each Employer shall be determined by the Committee in its sole discretion. Expenses relating to the operation of the Plan and Trust may be paid directly by the Trust, or by each Employer, at the sole discretion of the Committee.

Pursuant to the authority granted to the Officers of Catholic Healthcare West by action of the CHW Board of Directors on December 30, 1988, the undersigned hereby execute and approve this amendment and restatement of the Catholic Healthcare West Retirement Plan.

By /s/ [Illegible]

Date: November 16, 1990

By /s/ Illegible

Date: November 16, 1990

CATHOLIC HEALTHCARE WEST RETIREMENT PLAN

APPENDIX A PRIOR PLANS

The Catholic Healthcare West Retirement Plan is the new plan that resulted from the merger on January 1, 1989 of the following seven Prior Plans:

(i) St. Joseph's Hospital and Medical Center Retirement Plan

(ii) Catholic Healthcare West Multi-Employer Retirement Plan for the Employees of Mercy Hospital - Bakersfield

(iii) Catholic Healthcare West Multi-Employer Retirement Plan for the Employees of St. John's Regional Medical Center

(iv) Catholic Healthcare West Multi-Employer Retirement Plan for the Employees of Mercy Hospital and Medical Center, San Diego

(v) Catholic Healthcare West Multi-Employer Retirement Plan for the Employees of Sisters of Mercy, Burlingame

(vi) Catholic Healthcare West Retirement Income Plan

(vii) Mercy Healthcare Organization Retirement Plan (Mt. Shasta)

CATHOLIC HEALTHCARE WEST RETIREMENT PLAN

APPENDIX B
EMPLOYER AND AFFILIATES

As of the Effective Date, the following Affiliates shall be designated as an Employer as evidenced by their execution of this Plan Agreement.

(i) St. Joseph's Hospital and Medical Center, Phoenix ("St. Joseph's")

(ii) Mercy Hospital, Bakersfield ("Bakersfield")

(iii) St. John's Regional Medical Center, Oxnard ("Oxnard")

(iv) Mercy Hospital and Medical Center, San Diego ("San Diego")

(v) Mercy Services Corporation, San Diego ("Mercy Services San Diego")

(vi) Congregation of Sisters of Mercy of Burlingame ("Burlingame")

(vii) Catholic Healthcare West Corporation ("CHW")

(viii) Congregation of Sisters of Mercy of Auburn ("Auburn")

(ix) Mercy Healthcare Sacramento, consisting of four units: Mercy Regional Office, Mercy General Hospital, Mercy San Juan Hospital (including Surgery Center) and Mercy Hospital of Folsom.

(x) Mercy Services Corporation, Sacramento ("Mercy Services Sacramento")

(xi) Mercy Foundation

(xii) Mercy Medical Center Redding, Inc., including Shasta Senior Nutrition Programs, Inc. ("Redding")

(xiii) Mercy Medical Center Mt. Shasta ("Mt. Shasta")

CATHOLIC HEALTHCARE WEST RETIREMENT PLAN

APPENDIX C

Signature Page of Employer and Affiliates

The following page is the signature page to the original Catholic Healthcare West Retirement Plan adopted December 30, 1988 and effective January 1, 1989. This Amendment and Restatement, adopted by Catholic Healthcare West in accordance with Article 14, is an amendment and restatement to that original plan.

IN WITNESS WHEREOF, Catholic Healthcare West has caused this Plan Agreement to be executed by its respective duly authorized officers. Further, by the joint execution of this Plan Agreement by Catholic Healthcare West and the below indicated Companies, such Companies are designated as Affiliates and Employers, and such Companies adopt this Plan Agreement.

DATED this 30th day of December, 1988.

CATHOLIC HEALTHCARE WEST
(Sponsor and Employer)

By /s/ [Illegible]

SISTERS OF MERCY – BURLINGAME
(Affiliate and Employer)

By /s/ [Illegible]

MERCY HOSPITAL OF REDDING, INC.
(Affiliate and Employer)

By /s/ [Illegible]

MERCY HOSPITAL – BAKERSFIELD
(Affiliate and Employer)

By /s/ [Illegible]

ST. JOHN'S REGIONAL MEDICAL CENTER
(Affiliate and Employer)

By /s/ [Illegible]

SISTERS OF MERCY – AUBURN
(Affiliate and Employer)

By /s/ [Illegible]

MERCY HEALTHCARE – SACRAMENTO
(Affiliate and Employer)

By /s/ [Illegible]

MERCY HOSPITAL OF MT. SHASTA
(Affiliate and Employer)

By /s/ [Illegible]

MERCY HOSPITAL AND MEDICAL CENTER SAN DIEGO
(Affiliate and Employer)

By /s/ [Illegible]

ST. JOSEPH'S HOSPITAL AND MEDICAL CENTER
(Affiliate and Employer)

By /s/ [Illegible]

MERCY SERVICES CORPORATION – SAN DIEGO
(Affiliate and Employer)

By /s/ [Illegible]

MASTER TRUST AGREEMENT BETWEEN CATHOLIC HEALTHCARE WEST AND BANKERS TRUST COMPANY OF CALIFORNIA, N.A.

Effective July 1, 1989

Agreement and Declaration of trust made as of July 1, 1989, by and between Catholic Healthcare West ("CHW"), a California nonprofit public benefit corporation, and Bankers Trust of California a National Association

WITNESSETH

WHEREAS, CHW desires to establish a master retirement trust which will serve as a funding medium for eligible employee benefit plans of CHW and its subsidiaries and affiliates; and

WHEREAS, Beakers Trust Company of California, N.A. is willing to act as trustee of such trust upon all of the terms and conditions hereinafter set forth,

NOW, THEREFORE, CHW and Bankers Trust Company of California, N.A. declare and agree that Bankers Trust Company of California, N.A. will receive, hold and administer all sums of money and such other property acceptable to Bankers Trust Company of California, N.A, as shall from time to time be contributed, paid or delivered to it hereunder, IN TRUST, upon all of the following terms and conditions:

ARTICLE I
Title-Purpose-Policy-Effect

1.1. Name The master retirement trust established hereunder shall be known as the Catholic Healthcare West Retirement Plan Trust and is sometimes hereinafter referred to as the "Trust"

1.2. Definitions. Where used in this Agreement and Declaration of Trust, unless the context: otherwise requires or unless otherwise expressly provided:

(a) "Account Party" shall mean the Person designated by the Company to represent the Company for this purpose, the Named Fiduciary and any Person to whom the 'Trustee shall be instructed by the Named Fiduciary to deliver its annual account under Section 7.2. except, that, with respect to any filings notices, reports or accountings required to be given under the General Trust, "Account Party" shall be limited to that officer designated herein to represent the Company.

(b) "Accounting Period" shall mean the twelve consecutive month period coincident with the calendar year or the shorter period in any year in which the Trustee accepts appointment as Trustee hereunder or, with respect to any Participating Plan, ceases to gat as Trustee for any reason.

(c) "Administrative Committee" shall mean, with respect to each Participating Plan, the Committee or other Person, responsible for benefit administration under such Participating Plan, including any representative (designated in writing as such) or delegee thereof authorized to act on behalf of such Committee.

(d) "Agreement" shall mean all of the provisions of this instrument and all other written instruments amendatory hereof.

(e) "Asset Manager" shall mean the Trustee (other than for purposes of Article. V), Named Fiduciary or Investment Manager, individually or collectively as the context shall require, with respect to those assets held to an Investment Fund established hereunder over which it exercises, or to the extent it is authorized

to exercise, discretionary investment authority or control,

(f) "Bank business day" shall mean a day on which the Trustee is open for business.

(g) "Bankers" shall mean Bankers Trust Company of California, N.A.

(h) "Board of Directors" shall mean the Board of Directors of the Company,

(i) "Code" shall mean the Internal Revenue Code of 1986 as amended from time to time and Regulations issued thereunder,

(j) "Company" shall mean Catholic Healthcare West or any successor thereto.

(k) "Directed Fund" shall mean any Investment Fund, or part thereof, subject to the discretionary management and control of the Named Fiduciary or any Investment Manager.

(l) "Discretionary Fund" shell men any Investment Fund, or part thereof, subject to the discretionary management and control of the Trustee,

(m) "Equitable Share" shall mean the interest of any Participating Plan in any Investment Fund.

(n) "ERISA" shall mean the Employee Retirement income Security Act of 1974, as amended from time to time.

(o) "General Trust" shall mean the General Employee Benefit Trust created by Bankers Trust Company of California, N.A, under Declaration of Trust dated May 28, 1956, *as* amended.

* * *

of any Contribution to any Participating Plan, For the timing or amount thereof, or for the adequacy of the Master Retirement Fund or the funding standards adopted for any Participating Plan meet or discharge any pension or other liabilities of such plan.

ARTICLE II
Participation

2.1. Eligibility. Any employee benefit plan established by the Company, or a subsidiary or an affiliate of the Company, may be funded, in whole or in part, through the Trust if (I) the plan is qualified under Section 401(a) of the Code, (ii) the Trust is exempt from taxation under Section 501(1) of the Code, (iii) this Agreement. has been duly adopted as the trust under the Plan by the Board of Directors or by the board of directors of a. subsidiary or affiliate of the Company and, in the case of such subsidiary or, affiliate, the Board of Directors has consented thereto.

2.2. Effect on Adopting Company. When the Master Retirement Trust has been adopted by any subsidiary or affiliate of the Company, such subsidiary or affiliate shall be bound by the decisions, instructions, actions and directions of the Company or the Named Fiduciary under or affecting this Agreement, and the Trustee shall be fully protected by the Company and such subsidiary or affiliate In relying upon the decisions, instructions, actions and directions of the Company, the Administrative Committee of the Named Fiduciary, Except as may be hereafter specifically provided, the Trustee shall not be required to give notice to or to obtain the consent of any subsidiary or affiliate with respect to any action to the taken by the Trustee pursuant to this Agreement, and the Company shall have the sole authority to enforce this Agreement on behalf of any subsidiary or affiliate.

* * *

shall he construe as a contract between the Company and the Trustee according to the laws of the State of California in effect from time to time.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly: authorized and their corporate seals to the hereunto fixed And attested to as of the day and year first above written.

(Corporate Seal)

Catholic Healthcare West

By /s/ [Illegible]
VP & CEO
Title

Attest: /s/ SD

(Corporate Seal)

Bankers Trust Company of California, N.A

By /s/ [Illegible]
Vice President
Title

Attest: /s/ [Illegible]

RESOLUTION OF THE BOARD OF DIRECTORS OF CATHOLIC HEALTHCARE WEST

WHEREAS, Catholic Healthcare West ("CHW") established the Catholic Healthcare West Retirement Plan ("Plan") effective January 1, 1989, as a retirement vehicle for employees within the CHW system; and

WHEREAS, pursuant to Section 14.2 of the Plan, the Board of Directors of CHW ("Board") may amend the Plan document; and

WHEREAS, the Board, pursuant to Section 13.1 of the Plan document, has the power to appoint the Retirement Plan Committee ("Committee') which acts as the Administrator of the Plan and which is, and has been since the establishment of the Plan, an entity that has as its sole function the administration of the Plan; and

WHEREAS, it has always been the Board's intention and understanding that .the Plan would be and has been administered by the Committee in a fashion and manner that is consistent with the Mission and Philosophy, teaching and tenets of the Catholic Church and of the Sponsoring Congregations of CHW.

NOW THEREFORE, BE IT RESOLVED, that the Board approves and adopts the following statements regarding amendments to the Plan:

1. That it is the Board's understanding that the Committee does and has since the Plan's establishment shared common religious bonds with the Board, the Sponsoring congregations of CHW and the Roman Catholic Church.

2. That the Committee is and has since the establishment of the' Plan been expected to and has carried out its Plan Administration function in a manner that is consistent with CHW's Christian' Philosophy and Mission and the teachings and tenets of the Roman Catholic Church and of the Sponsoring Congregations of CHW

3. That Section 1.2 of the Plan Document be amended by adding the following language at the end of that Section: "This Plan is, and has been since its establishment, intended to be a Church Plan within the meaning of Section 414(e) of the Code and Section 3(33) of ERISA."

4. That Section 13.2 of the Plan Document be amended by adding the following language at the end of that Section: "In administering this Plan, the Retirement Plan Committee shall be, as it has been since the Plan's establishment, mindful of the Employer's Christian Philosophy and Mission and the teachings and tenets of the Roman Catholic Church and of the Sponsoring congregations of Catholic Healthcare West; i.e., the Auburn Regional Community of Sisters of Mercy, the Burlingame Regional Community of Sisters of Mercy, and the Sisters of St. Dominic of the Congregation of the Moat Holy Rosary of Adrian Michigan."

5. That Article 12 and 13 of the Plan Document be amended to remove all references to ERISA.

6. That the first sentence in Section 14.5 be amended to read as follows: "Upon the 'termination of this Plan and after payment of all expenses of the Trust, including any compensation then due the Trustee and the agents of the Committee, the Committee shall cause the Trustee to pay Participants and

Beneficiaries all of their benefits under the Plan; if there are not sufficient Plan assets to pay all such benefits then, as has been the case since the Plan's establishment, the order of allocation specified in Section 4044 of ERISA shall be used by the Committee as a guideline in making distributions."

7. That Section 15.1 of the Plan Document be amended to read as follows: "All matters respecting the validity, effect, interpretation and administration of this Plan shall be determined in accordance with the laws of the State of California except where preempted by applicable federal statutes."

8. That the Officers of the Catholic Healthcare West are given the power and authority to execute any and all documents necessary to adopt the above amendments and any other amendments which are necessary to implement and reflect the Board's desire to affirm the Plan's status as a Church Plan within the meaning of Section 414(e) of the Code and Section 3(33) of ERISA.

Passed and adopted at a duly noticed and constituted meeting of the Board of Directors of Catholic Healthcare West held on July 20, 1992.

/s/ [Illegible]
PRESIDENT AND CEO

ATTESTED TO:

/s/ [Illegible]
SECRETARY, BOARD OF DIRECTORS

CORPORATE ACTION OF DIGNITY HEALTH AMENDING THE CATHOLIC HEALTHCARE WEST PENSION PLAN

January 1, 2005 Restatement (As adopted November 2008)

AMENDMENT NO. 25

WHEREAS, Dignity Health adopted the Dignity Health Pension Plan (the "Plan"), effective January 1, 1989, and made several amendments thereafter, including a restatement of the Plan effective as of January 1, 2005; and

WHEREAS, the Plan was established by Dignity Health to benefit its eligible employees; and

WHEREAS, Dignity Health has reserved the right to amend the Plan in Section 12.01; and

WHEREAS, Dignity Health acts with respect to Plan amendments by action of the Human Resources and Compensation Committee of the Board of Directors of Dignity Health (the "Committee"); and

WHEREAS, on January 17, 2012, Dignity Health changed its name from Catholic Healthcare West to Dignity Health and altered its corporate governance; and

WHEREAS, the Committee desires to amend the Plan to reflect the name change and to revise the provisions regarding the Dignity Health Retirement Committee, which is the Plan Administrator; and

WHEREAS, the Dignity Health Retirement Committee will be reconstituted as the Dignity Health Retirement Plans Sub-Committee effective January 1, 2013; and

WHEREAS, at its March 18, 2012 meeting, the Committee authorized the Executive Vice President, Chief Human Resources Officer to amend the Plan to make the amendment discussed above,

NOW, THEREFORE, effective January 17, 2012, the Plan is amended as follows:

1. The name of the Plan is changed to the Dignity Health Pension Plan and all references to "CHW Pension Plan" and "Catholic Healthcare West Pension Plan" are changed to "Dignity Health Pension Plan."

2. The final paragraph of the Purpose and Background section, as added by Amendment 20, is revised in its entirety to read:

> Effective January 17, 2012, due to Catholic Healthcare West changing its name to Dignity Health, all references in the Plan to "CHW" or "Catholic Healthcare West" refer to Dignity Health.

3. Section 1.34 is revised in its entirety to rend:

> "Plan Administrator" means the Committee, as designated pursuant to Section 11.06 of the Plan.

4. The first sentence of Section 11.05(a) is revised in its entirety to read:

> The Board shall have the authority to amend and terminate the Plan and to appoint and remove a Trustee.

5. Section 11.06 is revised in its entirety to read:

> A Committee shall be appointed by the Board Human Resources and Compensation Committee subject to the right of the three members of the Mission Integrity Committee of the Board who are appointed by the Sponsorship Council provided

for in Dignity Health's bylaws to approve appointment of the members to the Committee. The Committee shall administer the Plan. Vacancies in the Committee, resulting front death. resignation, or otherwise, shall he filled from time to time by appointment of a new Committee member by the Board Human Resources and Compensation Committee subject to the approval of the three members of the Mission Integrity Committee who are appointed by the Sponsorship Council. Any member of the Committee may be removed at any time at the by the Board Human Resources and Compensation Committee subject to the approval of the three members of the Mission Integrity Committee who are appointed by the Sponsorship Council. Members shall serve without compensation for Committee service.

Pursuant to the authority granted to him, the Dignity Health Executive Vice President, Chief Human Resources Officer does hereby adopt this Amendment.

Dignity Health

Date: 12/21/12

By: /s/ [Illegible]

Title: Executive Vice President, Chief Human Resources Officer

CATHOLIC HEALTHCARE WEST RETIREMENT PLAN

Amended & Restated
January 1, 2005

PURPOSE AND BACKGROUND

The Catholic Healthcare West Retirement Plan is a defined benefit pension plan established to provide retirement benefits to employees of Catholic Healthcare West, its regional offices and affiliated hospitals and healthcare providers who are covered under this Plan as Affiliated Employers.

The Plan and its affiliated Trust is intended to qualify under Section 401(a) of the Internal Revenue Code and is created and maintained for the exclusive benefit of Eligible Employees of the Employer and their beneficiaries in the event of their retirement, death or disability.

This Plan is intended to be, and has been since its establishment, a Church Plan within the meaning of Section 414(e) of the Code and Section 3(33) of ERISA. This Plan document constitutes an amendment and complete restatement of the original Plan entered into by the Employer as of January 1, 1989 (and subsequently amended). The principal purpose of this amendment is to restate the Plan to incorporate various retirement benefit provisions for collective bargaining groups as well as certain other employees.

The Plan document Appendices are intended to be an integral part of the Plan and define specific provisions applicable to employees of Employers, Affiliated Employers, and their respective predecessors (e.g., entities merged into or acquired by Catholic Healthcare West).

The provisions of the Plan as set forth in this Plan document shall apply only to an Eligible Employee who terminates employment on or after January 1, 2005. The rights and benefits, if any, of an Employee who terminated employment prior to January 1, 2005 shall be determined in accordance with the provisions of the Plan as in effect on the date his or her employment terminated.

ARTICLE I
DEFINITIONS

Whenever used herein, the following words and phrases shall have the meaning specified below. Additional words and phrases may be defined in the text of the Plan.

1.01 Accrued Benefit

"Accrued Benefit" means the amount of monthly benefit payable to the Participant as of his Normal or Postponed Retirement Date, as calculated under Article W and any applicable Appendix based on his applicable Years of Service, Years of Benefit Service, Compensation and Final Average Compensation as of the date the calculation is made. A Participant's total Accrued Benefit is equal to the Accrued Benefits attributable to Years of Benefit Service earned at each Employer for whom the Participant was employed, subject to the Top Heavy minimum Accrued Benefit described in Section 10.02.

1.02 Actuarial Equivalent

"Actuarial Equivalent" or "Actuarially Equivalent" means equivalence in value between two or more methods of payment determined in accordance with the provisions of Appendix A.

1.03 Affiliated Employer

"Affiliated Employer" means any corporation which is member of a controlled group of corporations (as defined in Code Section 414(b)) which includes the Employer, any trade or business (whether or not incorporated) which is under common control (as defined in Section 414(c) of the Code) with the Employer, any organization (whether or not incorporated) which is a member of an affiliated service group (as defined in Code Section 414(m)) which includes the Employer, and any other entity required to be aggregated with the Employer pursuant to regulations under Code Section 414(o). Affiliated Employer shall also include the Sponsoring Congregations of Catholic Healthcare West and any of their subsidiaries.

1.04 Anniversary Date

"Anniversary Date" means each December 31.

1.05 Beneficiary

"Beneficiary" means the person or persons most recently designated by a Participant to receive any benefits payable hereunder in the event of the Participant's death subject to Sections 5.01(b), 8.01(a) and 8.01(b) of this Plan. Such Beneficiary designation may be made either in writing or electronically, at the discretion of, and in the method provided by, the Plan Administrator. For purposes of electronic designation, a personal identification number ("PIN") or another electronic identification method selected by the Plan Administrator may be used.

1.06 Benefit Commencement Date

"Benefit Commencement Date" means (a) the first day of the first period for which an amount is payable as an annuity, or (b) in the case of a benefit not payable

in the form of an annuity, the first day on which all events have occurred which entitle the Participant to such benefit. In the case of a disabled employee, the first day of the first period for which a benefit is to be received because the employee is Totally and Permanently Disabled shall be treated as the Benefit Commencement Date.

1.07 Benefit Service and Years of Benefit Service

Unless otherwise modified by an applicable Appendix, an Employee will be credited with one full or fractional "Year of Benefit Service" for each corresponding full or fractional Year of Vesting Service credited to such Employee, excluding the following:

(a) The Employee's first full Year of Vesting Service, except to the extent in any applicable Appendix to this Plan requires that such first full Year of Vesting Service to be included.

(b) Any full or fractional Year of Vesting Service credited to the Employee while such Employee was not an Eligible Employee.

(c) Any full or fractional Years of Service for vesting specifically excluded by Appendix B.

Special rules regarding "Years of Benefit Service" may apply to employees of certain Employers, Affiliated Employers, and their respective predecessors, as described herein.

1.08 Board

"Board" means the board of directors of Catholic Healthcare West or its designee.

1.09 Break in Service

"Break in Service" means a series of five (5) consecutive Plan Years during which an Employee completes

less than 501 Hours of Service in each Plan Year. An Employee shall not be credited with Benefit Service for such period. In determining whether a Break in Service has occurred, the following authorized Leaves of Absence shall be disregarded:

(a) Leaves of Absence expressly authorized by the Employer, including temporary absence by reason of illness, if the Employee returns to work for the Employer not later than the expiration of such Leave of Absence;

(b) Service in the Armed Forces of the United States, if the Employee makes application for re-employment with the Employer within three (3) months from the date he becomes entitled to be released from service with the Armed Forces, and thereafter he returns to work for the Employer within three (3) months from such date without intervening employment elsewhere if work was available with the Employer; or

(c) Leaves of Absence expressly authorized by the Employer for any period by reason of (i) pregnancy of the Employee, (ii) birth of a child of the Employee, (iii) placement of a child with the Employee in connection with an adoption or (iv) caring of a child described in (ii) or (iii) immediately following such birth or placement.

1.10 Code

"Code" means the Internal Revenue Code of 1986, as it may be amended from time to time, and any regulations, whether final, proposed or temporary, issued thereunder from time to time (the "Regulations").

1.11 Committee

"Committee" means the Committee described in Section 11.6 of the Plan.

1.12 Compensation or Plan Compensation

"Compensation" or "Plan Compensation" means amounts earned while a Participant described in (a) and (b) below, but excluding amounts described in (c), (d), (e), (f), and (g) below, and subject to the applicable limits described below:

(a) All income from any employer who is an Employer or Affiliated Employer that is shown on the Employee's Federal Form W-2 for the year, whether in cash or kind, that is subject to federal income taxation, but excluding severance pay.

(b) Salary or wages from any employer who is an Employer or Affiliated Employer that is deferred in accordance with Code Section 402(g)(3), contributions made on a before tax basis pursuant to the Catholic Healthcare West Key Employee Share Option Plan, Section 132(f), 403(b), Section 401(k), Section 125 (Flex) or any amounts deferred under any deferred compensation plan sponsored by the Employer while employed by any such Employer.

(c) In the case of an Employee who is a "highly compensated employee" as defined in Code Section 414(q), any amount which is paid to or otherwise included in the Employee's income from a "non-qualified deferred compensation plan" as defined in Code Section 409A.

(d) Effective January 1, 2000, all severance pay.

(e) Any remuneration paid by an Employer to a religious order as a result of service performed for an Employer by an Employee who is a member of such religious order.

(f) In the case of an Employee who is a "highly compensated employee" as defined in Code Section 414(q), any income realized by the Employee due to a discharge of indebtedness by the Employer or from any loan with a below-market interest rate (as defined in Code Section 7872) or any forgone interest (as defined in Code Section 7872) received by the Employee from the Employer.

(g) In the case of an Employee who is a "highly compensated employee" as described in Code Section 414(q), any amount received by such Employee from the Employer for relocation expenses.

(h) Any amount which is (i) paid to the Employee from the CHW KEW I or II Defined Compensation Plan, or deemed to have been constructively received by the Employee (even though not paid) from the CHW KEW I or II Deferred Compensation Plan (due to the Employee's vesting or other rights thereunder and regardless of whether actually paid to the Employee), and (ii) subject to federal income taxation as a result of such payment or constructive receipt.

Compensation shall be modified for purposes of this Plan in accordance with any applicable provisions stipulated in any Appendix to this Plan for an Employer or Affiliated Employer.

If applicable, Compensation shall include amounts described in (a) and (b) above from an Employer or

Affiliated Employer, for any period or periods prior to the date such employer became an Employer (that is, prior to the date the employer adopted the Plan) or the date the employer became an Affiliated Employer.

In addition to other applicable limitations set forth in the Plan, and notwithstanding any other provision of the Plan to the contrary, for Plan Years beginning on or after January 1, 1994, the annual Compensation of each Employee taken into account under the Plan shall not exceed the OBRA '93 annual Compensation limit. The OBRA '93 annual Compensation limit is $150,000, as adjusted by the Commissioner for increases in the cost of living in accordance with section 401(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which Compensation is determined (a "determination period") beginning in such calendar year.

For Plan Years beginning on or after January 1, 1994, any reference in this Plan to the limitation under Section 401(a)(17) of the Code shall mean the OBRA '93 annual Compensation limit set forth in this provision, provided that for former SCH Members (as defined in Appendices B-31 and B-32), for Plan Years on or after January 1, 1995, any reference to the limitation under Section 401(a)(17) shall mean the OBRA '93 Annual Compensation Limit as set forth in this provision. If Compensation for any prior determination period is taken into account in determining an Employee's benefits accruing in the current Plan Year, the Compensation for that prior determination period is subject to the OBRA '93 annual Compensation limit in effect for that prior determination period. For this purpose, for determination periods beginning before the first day of the first Plan Year beginning on or

after January 1, 1994 (or January 1, 1995 with respect to former SCH Members), the OBRA '93 annual Compensation limit is $150,000.

Prior to January 1, 1997, if an Employee is the Spouse or a lineal descendant (who has not attained age 19 before the close of the Plan Year) of an Employee who is both a highly compensated employee as defined in Section 414(q)(1) of the Code and one of the ten most highly compensated Employees during the Plan Year, both such Employees shall be considered a single Employee with one Compensation and the applicable $150,000 limit described above shall be allocated among such Employees of the family unit in proportion to each member's Compensation.

Effective January 1, 1998, for the purposes of Compensation or Plan Compensation and Allowable Compensation under Sections 1.12 and 9.01(a), amounts under Code § 125 include any amounts not available to a Participant in cash in lieu of group health coverage because the Participant is unable to certify that he or she has other health coverage. An amount will be treated as an amount under Code § 125 only if the Employer does not request or collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.

Effective January 1, 2002, if a participant has one Hour of Service on or after January 1, 2002, the following shall apply:

> The annual Plan Compensation of each Participant taken into account in determining benefit accruals for any Plan Year beginning on or after January 1, 2002, shall not exceed $200,000 (as adjusted). Plan Compensation means Plan Compensation during the Plan Year or such other

consecutive 12-month period over which Plan Compensation is otherwise determined under the Plan (the determination period).

The $200,000 limit on annual Compensation in the preceding paragraph shall be adjusted for cost-of-living increases in accordance with Code Section 401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to annual Compensation for the determination period that begins with or within such calendar year.

In determining benefit accruals in Plan Years beginning after December 31, 2001, the annual Compensation limit in the preceding paragraph of this Section for determination periods beginning before January 1, 2002, shall be $200,000 if a Participant has an Hour of Service on or after January 1, 2002.

1.13 Contingent Annuitant

"Contingent Annuitant" means the person or persons most recently designated by a Participant to receive any benefits hereunder in the event of the Participant's death subject to the Contingent Annuitant optional forms of payment described in Articles W or V.

1.14 Covered Compensation

"Covered Compensation" means the average of the Social Security Taxable Wage Bases (without indexing), for the 35-year period ending with the last day of the calendar year in which the Participant attains (or will attain) Social Security Normal Retirement Age. In determining a Participant's Covered Compensation for a Plan Year, the Social Security

Taxable Wage Base for such Plan Year and any subsequent Plan year shall be assumed to be the same as the Social Security Taxable Wage Base as in effect as of the beginning of the Plan Year for which the determination is being made. A Participant's Covered Compensa¬tion in any Plan Year ending after the 35-year period described above shall be the Participant's Covered Compensation for the Plan Year during which the Participant attained the Participant's Social Security Normal Retirement Age. A Participant's Covered Compensation for a Plan Year prior to the 35-year period described above shall be the Social Security Taxable Wage Base in effect as of the beginning of the Plan Year. In no event shall Covered Compensation exceed the Social Security Taxable Wage Base in effect at the beginning of the Plan Year. Any change in a Participant's Covered Compensation shall not cause any reduction in the Participant's Accrued Benefit.

1.15 Effective Date

"Effective Date" means January 1, 2005 and shall be the effective date of each provision of this Plan except as expressly set forth in the Plan. The original effective date of this Plan is January 1, 1989.

1.16 Eligible Employee

An Employee is an "Eligible Employee" during any period of employment with an employer who is an Employer except the following:

(a) A period of employment during which the Employee's compensation and conditions of employment are established by the terms of a collective bargaining agreement to which the

Employer is a party and which does not specifically provide coverage of such Employee under the Plan or any plan merged into the Plan.

(b) A period of employment during which the Employee is a Leased Employee.

(c) A period of employment during which the Employee is a member of a religious order and whose remuneration for services is paid directly to such religious order and who does not have Compensation.

(d) A period of employment with an employer who became an Employer after January 1, 1989, occurring prior to the date such employer became an Employer after January 1, 1989, (that is, prior to the effective date the employer adopted the Plan).

(e) A period of employment prior to January 1, 1996 with Catholic Healthcare West Corporation, during which the Employee was a KERP executive assigned to and working at an Affiliated Employer that had not adopted the Plan.

(f) Any period of employment specifically excluded by any applicable Appendix to this Plan.

(g) A period of employment during which the Employee is assigned to Tule Management Services (an unincorporated division of Catholic Healthcare West Central California formerly known as Mercy Healthcare Bakersfield).

1.17 Eligibility Computation Period

"Eligibility Computation Period" means the consecutive 12 month period beginning with the Employee's Employment Commencement Date.

Subsequent Eligibility Computation Periods shall change to the Plan Year, starting with the first day of the Plan Year next following the Employee's Employment Commencement Date.

1.18 Employee

"Employee" means any person who is employed by the Employer or Affiliated Employer. Employee shall also include members of a religious order who perform services for an Employer. An individual shall only be treated as an Employee if he or she is reported on the payroll records of the Employer as a common law employee. This term does not include any other common law employee. In particular, it is expressly intended that individuals not treated as common law employees by the Employer on its payroll records are to be excluded from Plan participation even if a court or administrative agency determines that such individuals are common law employees of the Employer.

1.19 Employer

"Employer" means CATHOLIC HEALTHCARE WEST (sometimes referred to herein as "CHW"), and such of its Affiliated Employers, successors or assigns, or portions thereof, as may be covered under this Plan. An Affiliated Employer, or portions thereof, shall be covered under the Plan and thereby be designated an Employer through the adoption by the Board of an amendment to the Plan to such effect. The effective date and scope of such designation as an Employer shall be as provided in Appendix B or Sections 4-A.3, 4-B.3 and 4-C.3.

1.20 Employment Commencement Date

"Employment Commencement Date" means the date on which an Employee first is credited with an Hour of Service for the Employer or Affiliated Employer.

1.21 Entry Date

"Entry Date" means the first day of the month.

1.22 ERISA

"ERISA" means the Employee Retirement Income Security Act of 1974, as it may be periodically amended, and regulations issued thereunder.

1.23 Final Average Compensation

"Final Average Compensation" means the highest annualized average Compensation of an Employee over sixty (60) consecutive completed calendar months out of the Employee's total years of employment (excluding employment during any period of time described in (ii) below with an Employer or an Affiliated Employer).

(a) Rule permitting pro-rating of Compensation

Compensation in a period of consecutive completed calendar months may be determined by pro-rating the Compensation in the calendar year containing such months.

(b) Special rules for Employees with lapses in Years of Vesting Service

For purposes of the definition of Final Average Compensation, any calendar year or partial calendar year, and any Compensation earned during such year or partial year, during which the Employee did not earn a full or fractional

Year of Vesting Service, shall be disregarded. Specifically, for purposes of the definition of Final Average Compensation, two periods of employment separated by such a lapse in Years of Vesting Service shall be deemed to be consecutive. Excluded employment for the purpose of determining Final Average Compensation shall also include any period during which a Participant ceased to be an Eligible Employee due to coverage under a collective bargaining agreement if the applicable collective bargaining agreement specifically provides that such period of time will not be included in the determination of Final Average Compensation.

(c) Affiliated Employer Compensation

If applicable, Final Average Compensation shall include Compensation from an employer who is an Employer or Affiliated Employer, occurring prior to the date such employer became an Employer or Affiliated Employer.

(d) Active Employees on or After July 1, 2001

For purposes of determining the Final Average Compensation of an Employee who is actively employed on or after July 1, 2001, Compensation shall be taken into account as follows:

(i) Compensation for all periods of employment on or after January 1, 1990, or

(ii) Compensation for all periods of employment commencing on the Employee's Entry Date, if using Compensation under this paragraph (ii) produces a greater Final Average Compensation.

For purposes of this paragraph, 'actively employed' shall include an Employee who earns an Hour of Service on or after July 1, 2001, and any Employee who is on an approved Leave of Absence on July 1, 2001.

(e) Pro-ration of Code § 401(a)(17) Limit for Partial Plan Year of Participation

For the purpose of applying the Code §401(a)(17) limit on Compensation for any Plan Year in which Final Average Compensation considers less than 12 months of Compensation, the $200,000 (indexed) will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

1.24 Hour of Service

"Hour of Service" means:

(a) Each hour for which an Employee is paid, or entitled to payment, for the performance of duties for the Employer, Affiliated Employer, or a Reciprocating Employer. These hours shall be credited to the Employee for the computation period or periods in which the duties are performed.

No hour of service shall be credited to an Employee as an Hour of Service under this Plan with respect to employment with a Reciprocating Employer unless such employment is followed by the Employee's being credited with at least one Hour of Service for employment at an Employer or an Affiliated Employer.

Hours of Service for Employees under this Section shall be determined by crediting each

Employee with 190 Hours of Service for each month in which the Employee would have been credited with at least 1 Hour of Service under that provision. However, for classes of Employees paid on an hourly basis and for other Employees for whom records of hours are maintained, Hours of Service shall be determined on the basis of hours for which Compensation is paid or due.

(b) Each hour for which an Employee is paid, or entitled to payment, by the Employer, Affiliated Employer, or Reciprocating Employer on account of a period of time during which no duties are performed due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty, or a paid or unpaid Leave of Absence, provided no Hours of Service shall be credited to an Employee on account of any payment made or due an Employee solely as reimbursement for medical or medically related expenses incurred by the Employee. Such person shall not be considered to have terminated employment under this subsection (b) unless the person fails to return to the employ of the Employer or Reciprocating Employer at or prior to the expiration date of the person's absence hereunder, in which case the person shall be deemed to have terminated as of the date of commencement of such absence. No more than 501 Hours of Service shall be credited under this paragraph for any single continuous period (whether or not such period occurs in a single computation period). For Plan Years beginning before January 1, 1999, but not for any Plan Year beginning after December 31, 1998, an Hour of Service also included any time during

which a Participant was receiving severance pay. In addition, effective January 1, 1994, for purposes of this paragraph only, if an Employee receives payments from worker's compensation or state disability insurance such payments from worker's compensation or state disability insurance shall be converted to Hours of Service during such period while an Employee is also receiving payments for vacation, PTO or illness payments from an Employer, an Affiliated Employer or a Reciprocating Employer on account of a period of time during which no duties are performed due to disability.

(c) Each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer, Affiliated Employer, or Reciprocating Employer. An Hour of Service credited under subsection (a) or (b) above will not be credited under this subsection (c). These hours shall be credited to the Employee for the computation period or periods to which the award or agreement pertains rather than the computation period in which the award, agreement or payment is made. If this provision results in an increase in the Employee's Accrued Benefit, then the Committee shall establish equitable procedures for determining any additional benefit.

(d) Solely for the purpose of determining whether a Break in Service has occurred, an employee who is absent from work for maternity or paternity reasons shall receive credit for the Hours of Service which would otherwise have been credited but for such absence based on the Employee's normally scheduled hours per week

or 40 hours per week if there is no regular schedule, to a maximum of 500 Hours of Service. For purposes of this paragraph, an absence from work for maternity or paternity reasons means an absence due to:

(i) The pregnancy of the Employee;

(ii) The birth of a child of the Employee;

(iii) The placement of a child with the Employee in connection with the adoption of such child by the Employee; or

(iv) The caring for a child for a period beginning immediately after birth or placement.

The Hours of Service credited under this subsection (d) shall be credited either in the Plan Year in which the absence begins, if the crediting is necessary to prevent a Break in Service in that period or, in all other cases, in the following Plan Year.

(e) Special Rule for SEIU Participants. Solely with respect to those Participants whose compensation and conditions of employment are established by the terms of that certain Tentative Agreement (the "SEIU Contract") between Employer and certain of its Affiliates, on the one hand, and Service Employees International Union Locals 399 and 535, on the other hand (the "SEIU Participants"), if at the time of an SEIU Participant's Separation From Service, the SEIU Participant has accrued a sick leave account balance of three hundred or more sick leave hours in what is commonly known as the "extended sick leave bank" (the value of which is not paid out to the SEIU Participants on

termination of employment), then all such accrued sick leave hours shall be treated as Hours of Service for the purpose of calculating the SEIU Participant's Years of Benefit Service and Years of Eligibility Service, but such accrued sick leave hours shall not be treated as Hours of Service for purposes of calculating years of Vesting Service. The provisions of this paragraph shall only apply to the following Facilities:

- St. Mary Medical Center Long Beach
- California Hospital Medical Center
- Bakersfield Memorial Hospital
- Mercy Hospital (Bakersfield)
- St. Bernardine Medical Center
- Community Hospital of San Bernardino
- St. John's Regional Medical Center (Oxnard)
- St. John's Pleasant Valley Hospital (Camarillo)
- Northridge Hospital Medical Center

(f) With respect only to those Employees whose terms of employment are governed by the collective bargaining agreement between Mercy Healthcare Sacramento and the California Nurses Association ("CNA Agreement"), each hour of "House Convenience" time (as defined in the CNA Agreement) shall be credited as an Hour of Service.

The calculation of the number of Hours of Service to be credited under (b) and (c) above for periods during which no duties are performed, and the crediting of such Hours of Service to periods of time for purposes of computations under the Plan, shall be determined

by the Committee in accordance with the rules set forth in paragraphs (b) and (c) of Department of Labor Regulation section 2530.200b-2, which rules shall be consistently applied with respect to all Employees within the same job classifications.

1.25 Leased Employee

"Leased Employee" shall mean any person who, pursuant to an agreement between the recipient and any other person ("leasing organization"), has performed services for the recipient, or for the Employer and related persons determined in accordance with Section 414(n)(6) of the Code, on a substantially full-time basis for a period of at least one (1) year and such services are performed under the primary direction and control of the Employer. A Leased Employee shall be treated as an Employee of the Employer. However, contributions or benefits provided the Leased Employee by the leasing organization which are attributable to services performed for the recipient Employer shall be treated as provided by the Employer. The Employer shall not treat the Leased Employee as an Eligible Employee for purposes of coverage under this Plan if such Leased Employees constitute less than twenty percent (20%) of the Employer's non-highly compensated work force as defined in Code Section 414(n)(5)(C)(ii) and are covered by a money purchase pension plan of the leasing organization providing:

(a) A non-integrated contribution rate of at least ten percent (10%) of compensation,

(b) Immediate participation, and

(c) Full and immediate vesting.

1.26 Leave of Absence

"Leave of Absence" means an authorized absence granted by the Employer under uniform, non-discriminatory circumstances for the following circumstances:

(a) Leaves of Absence granted by the Employer or Affiliated Employer, including temporary absence by reason of illness, if the Employee returns to work for the Employer or Affiliated Employer not later than 30 days immediately following the expiration of such Leave of Absence, unless the failure to return is due to the Employee's retirement, Total and Permanent Disability or death; or

(b) Service in the Armed Forces of the United States, if the Employee makes application for re-employment with the Employer or Affiliated Employer within three months from the date he is entitled to be released from the Armed Forces, and thereafter he returns to work for the Employer or Affiliated Employer within three months from such date without intervening employment elsewhere, if work is available with the Employer or Affiliated Employer.

1.27 Limitation Year

"Limitation Year" means the Plan Year.

1.28 Named Fiduciary

"Named Fiduciary" means the Employer, the Plan Administrator and the investment manager, if any, but only with respect to the specific responsibilities of each for Plan administration, all as described in this Plan.

1.29 Normal Retirement Age

"Normal Retirement Age" means age 65.

1.30 Normal Retirement Date

"Normal Retirement Date" means the first day of the month coincident with or next following the Participant's attainment of Normal Retirement Age.

1.31 One Year Break in Service

"One Year Break in Service" means a Plan Year in which an Employee completes less than 501 Hours of Service.

1.32 Participant

"Participant" means any Employee included under the terms of the Plan in accordance with the provisions of Article II, or any former Employee entitled to receive benefit payments from the Plan.

1.33 Plan

"Plan" means the Catholic Healthcare West Retirement Plan, as described in this document and as it may be amended from time to time hereafter.

1.34 Plan Administrator

"Plan Administrator" means the Committee, designated by the Board pursuant to Section 11.06 of the Plan.

1.35 Plan Year

"Plan Year" means the twelve consecutive months beginning on each January 1 and ending the next following December 31. The Plan Year shall be the Limitation Year for purposes of Section 9.02 of the Plan and Section 415 of the Code.

1.36 Qualified Joint and Survivor Annuity

"Qualified Joint and Survivor Annuity" means an annuity for the life of both the Participant and his Spouse. If the Participant dies first, the monthly benefit payable to the Spouse shall be 50% of the monthly benefit payable to the Participant.

1.37 Reciprocating Employer

"Reciprocating Employer" means an employer that maintains a Retirement Plan with whom this Plan has entered into a reciprocity agreement. Hours of Service and employment with a Reciprocating Employer are credited for purposes of determining an Employee's Years of Eligibility Service and Years of Vesting Service under this Plan, but only if such Hours of Service and employment at a Reciprocating Employer are followed by the Employee's being credited with at least one Hour of Service for employment at an Employer or Affiliated Employer. Reciprocating Employers are not Employers or Affiliated Employers and therefore such Hours of Service and employment are not considered for purposes of determining the Employee's Years of Benefit Service or Final Average Compensation.

1.38 Reemployment Commencement Date

"Reemployment Commencement Date" means the date on which an Employee is first credited with an Hour of Service for the Employer or Affiliated Employer following a Separation from Service.

1.39 Separation From Service or Separated From Service

"Separation From Service" or "Separated From Service" means termination of employment with the Employer or an Affiliated Employer for any reason, but excluding authorized Leaves of Absence, and the

date of such Separation From Service shall be the earlier of:

(a) The date on which an Employee quits, resigns, retires, is discharged or dies; or

(b) The first date of a period in which an Employee fails to return to employment with the Employer or Affiliated Employer by the date on which an authorized Leave of Absence expires. In which case, the date of such Separation From Service will be the date immediately following the date on which the authorized Leave of Absence expires.

1.40 Social Security Taxable Wage Base

"Social Security Taxable Wage Base" shall mean the amount of wages from which OASDI Social Security Taxes are required to be withheld in accordance with the Federal Insurance Contributions Act, or any successor act, which is in effect at the beginning of the Plan Year.

1.41 Sponsoring Congregation

"Sponsoring Congregation" shall mean the Catholic Orders of Women who are the corporate members of Catholic Healthcare West.

1.42 Spousal Consent

"Spousal Consent means the written consent of the Participant's Spouse witnessed by a Plan representative or a notary public provided that such written consent shall not be required if it is established to the satisfaction of a Plan representative that such consent cannot be obtained because (1) there is no Spouse, or (2) the Spouse cannot be located, or (3) such other circumstances exist as may be prescribed by applicable regulations. Any such written Spousal Consent or

establishment that consent cannot be obtained shall be effective only with respect to that Spouse. Such consent shall acknowledge the designated Beneficiary and the specific form of any benefit paid under the Plan (including any remaining benefits that a designated Beneficiary may receive) and any change in Beneficiary or benefit elected at a later time shall require a new Spousal Consent. Effective September 1, 2008, this definition is deleted.

1.43 Suspended Participant

"Suspended Participant" means a Participant who ceases to be an Eligible Employee, but remains an Employee of the Employer or Affiliated Employer.

1.44 Totally and Permanently Disabled

"Totally and Permanently Disabled" means entitlement to a disability benefit under the Federal Social Security Act, and as provided in Section 3.04.

1.45 Trust

"Trust" means the legal entity created by the Trust Agreement.

1.46 Trust Agreement

"Trust Agreement" means the agreement entered into by the Trustee and the Employer.

1.47 Trust Fund

"Trust Fund" means the assets held by the Trustee in accordance with the Plan and any related Trust Agreement to provide the benefits under the Plan.

1.48 Trustee

"Trustee" means the trustee appointed by the Employer to administer the Trust Fund created for the purpose of the Plan as defined in the Trust Agreement.

1.49 Year of Service

"Year of Service" for purposes of determining Plan eligibility or "Year of Eligibility Service" means an Eligibility Computation Period during which an Employee completes at least 1,000 Hours of Service for an Employer, Affiliated Employer or a Reciprocating Employer. The initial Eligibility Computation Period shall begin with an Employee's Employment Commencement Date. Subsequent Eligibility Computation Periods shall begin with the Plan Year, beginning with the Plan Year which includes the first anniversary of the Employee's Employment Commencement Date. Special rules regarding "Year of Eligibility Service" may apply to employees of certain Employers, Affiliated Employers and their respective predecessors, as described in various Appendices.

"Years of Service" for vesting or "Year of Vesting Service" means a Plan Year in which the Employee completes at least 1,000 Hours of Service with the Employer, an Affiliated Employer or a Reciprocating Employer. If an Employee is credited with less than 1,000 Hours of Service, the Employee shall receive a fraction of a Year of Service, provided the Employee was working at an annualized rate of at least 1,000 Hours of Service per year. Such fraction shall be the Employee's number of completed calendar months of employment divided by twelve (12). Special rules regarding "Year of Vesting Service" may apply to employees of certain Employers, Affiliated Employers and their respective predecessors, as described in various Appendices.

If an Employee completes a Year of Service for eligibility purposes which overlaps two Plan Years, but is not credited with 1,000 Hours of Service in either of the two Plan Years, the Employee shall be

credited with one Year of Vesting Service for such two Plan Year period.

(a) Years of Vesting Service before a Break in Service shall not be taken into account until the Participant has subsequently completed a Year of Service following his Reemployment Commencement Date after such Break in Service.

(b) If a non-vested Employee incurs a Break in Service, any Years of Vesting Service completed prior to such Break in Service shall be disregarded in the event the Employee is subsequently rehired and is credited with an Hour of Service after such Break in Service.

(c) An Employee's Years of Service for eligibility and vesting shall be determined by aggregating all individual Years of Service, unless such service may be disregarded in accordance with (a) or (b) above.

(d) Years of Service for eligibility, vesting and benefit accrual shall include any Years of Service with an Affiliated Employer specifically provided for in an applicable Appendix B to the Plan.

(e) Effective December 14, 1994, Years of Service for eligibility, vesting and benefit accrual shall include any Years of Service with respect to qualified military service required to be included in accordance with Section 414(u) of the Code.

(f) For purposes of determining an Employee's Years of Eligibility Service and Vesting Service only (not Benefit Service), employment with the

following organizations prior to their acquisition by the Employer or an Affiliated Employer shall be included:

(i) Option Care prior to its acquisition by Mercy Healthcare Bakersfield;

(ii) Redding Pathology Laboratory prior to its acquisition by Mercy Healthcare North;

(iii) Participants employed by Visiting Nurses Association of Long Beach, Inc. on November 20, 1997, prior to its acquisition by St. Mary Medical Center;

(iv) Employees who were employees of UniHealth on December 3, 1998 and became Employees of the Employer on December 4, 1998;

(v) Westside Healthcare District prior to the acquisition of assets by CHW Central California;

(vi) Participants who were employees of Valley Community Hospital of Santa Maria, California on February 28, 1999 and who were subsequently employed by Catholic Healthcare West as a result of having received and accepted an offer of employment between March 1, 1999 and April 30, 1999;

(vii) Employment with Sierra Nevada Memorial-Miners Hospital, Inc. prior to February 20, 1996 shall not be considered for purposes of eligibility, vesting or Benefit Service.

(g) Employees who are members of a religious order and whose remuneration for services is paid directly to such religious order shall receive a Year of Eligibility and a Year of

Vesting Service for each Plan Year during which such Employee performs services for an Employer; provided, however, that such an Employee will receive only one Year of Eligibility Service and one Year of Vesting Service for any one Plan Year.

(h) Employment with Alliance Home care, Inc. on June 15, 1999, and who was subsequently employed by Catholic Healthcare West as a result of having received and accepted an offer of employment between June 16, 1999 and July 31, 1999, employment with Alliance Home Care shall be counted for purposes of determining the Employee's Years of Vesting Service and Years of Eligibility Service, as if Alliance Home Care had been an Employer, for purposes of Section 1.46 of the Plan during such period. This special rule applies for purposes of the determination of Years of Vesting Service and Years of Eligibility Service only and it specifically does not apply for purposes of the determination of Years of Benefit Service.

1.50 Spouse

A Participant's lawful Spouse, as defined by applicable state law.

* * *

ARTICLE XI
FIDUCIARY RESPONSIBILITIES

11.01 Named Fiduciaries

The authority to control and manage the operation and administration of the Plan shall be allocated as provided in the Plan and Trust Agreement among the Board, the Committee and the Trustee, all of whom

are named fiduciaries. Any person or group of people may serve in more than one fiduciary capacity with regard to the Plan. In addition, procedures for the appointment of another fiduciary, an investment manager, are set forth in the Trust Agreement.

11.02 Fiduciary Standards

Each fiduciary shall discharge its duties with respect to the Plan and Trust Agreement solely in the interest of the Participants and Beneficiaries and:

(a) For the exclusive purpose of providing benefits to Participants and their Beneficiaries:

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(c) By diversifying the investments of the Trust Fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

(d) In accordance with the Trust Agreement.

11.03 Fiduciaries Liable for Breach of Duty

A fiduciary may be liable for any breach of the fiduciary's fiduciary responsibilities. In addition, a fiduciary under this Plan may be liable for a breach of fiduciary responsibility of another fiduciary under this Plan.

11.04 Fiduciary May Employ Agents

A fiduciary other than the Trustee may, with the consent of the Employer, employ one or more persons to render advice and assistance with regard to any

function such fiduciary has under the Plan. The expenses of such persons shall be paid by the Trust if not paid by the Employer.

11.05 Authority of Named Fiduciaries

(a) The Board shall have the authority to amend and terminate the Plan, to appoint and remove members of the committee and to appoint and remove a Trustee. The Board by resolution may delegate any of its authority to an officer or officers of the Employer.

(b) The Committee shall have the authority specified in Section 11.07 of the Plan.

(c) The Trustee shall have the authority to establish the fair market value of the Trust Fund, to employ advisors, agents and counsel, to hold the trust assets and to render accounts of its administration of the Trust.

11.06 Appointment of Committee

A Committee shall be appointed by the Board to administer the Plan on their behalf. Vacancies in the Committee, resulting from death, resignation or otherwise, shall be filled from time to time by appointment of a new Committee member by the Board and any member of the Committee may be removed at any time at the discretion of the Board. Members shall serve without compensation for Committee service.

11.07 Committee Operating Rules

The Committee shall act by agreement of a majority of its members, either by vote at a meeting or in writing without a meeting. By such action, it may authorize one or more members to execute documents on its behalf and direct the Trustee in the performance of its duties hereunder. The Trustee, upon written

notification of such authorization, shall accept and rely upon such documents until notified in writing that the authorization has been revoked by the Committee. The Trustee shall not be deemed to be on notice of any change in the membership of the Committee unless notified in writing. A member of the Committee, who is also a Participant hereunder, shall not vote or act upon any matter relating solely to the member. In the event of a deadlock or other situation which prevents agreement of a majority of the Committee members, the matter shall be decided by the Board. In administering this Plan, the Committee shall be, as it has been since the Plan's establishment, mindful of the Employer's Judeo-Christian Philosophy and Mission and the teachings and tenets of the Roman Catholic Church and of the Sponsoring Congregations of Catholic Healthcare West.

11.08 Powers and Duties

The Committee shall have full power to administer the Plan and to interpret, construe and apply all its provisions on behalf of the Employer. The Committee shall serve as the Plan Administrator for the Plan. The Committee's powers and duties, unless properly delegated, shall include, but shall not be limited to:

(a) Interpreting the Plan, carrying out provisions of the Plan and deciding questions relating to eligibility, the crediting of service for vesting and benefit accrual, and benefit amounts.

* * *

ARTICLE XII
AMENDMENT TO THE PLAN

12.01 Right to Amend

The Board shall have the right to amend the Plan and Trust Agreement at any time and from time to time to any extent that it deems advisable, and any amendment so adopted shall be binding on all Employers. No such amendment shall increase the duties or responsibilities of the Trustee without written consent thereto. No amendment shall be made to this Plan which reduces an Accrued Benefit or transfers any part of the corpus or income of the Trust Fund to purposes other than the exclusive benefit of Participants and their Spouses or Beneficiaries, or which shall cause any part of the corpus or income of the Trust Fund to revert to, or become the property of, the Employer until all liabilities under the Trust Fund pursuant to the Plan are satisfied.

12.02 Consent to Amendment

The Board does not need the consent of any Employer, Affiliated Employer, Participant, Beneficiary or payee for any amendment to the Plan.

ARTICLE XIII
TERMINATION OF THE PLAN

13.01 Right to Terminate

The Board may terminate the Plan in whole or in part at any time. Upon partial or complete termination of the Plan the Accrued Benefit of each affected Participant shall be 100% vested.

The Employer shall have no liability to any Participant to provide benefits in addition to those which would be provided by the assets of the Trust Fund in the event of Plan termination.

13.02 Allocation of Assets on Plan Termination

Upon the termination of this Plan, and after payment of all expenses of the Trust, including any compensation then due the Trustee and the agents of the Committee, the Committee shall cause the Trustee to pay Participants and Beneficiaries all of their benefits under the Plan. If there are not sufficient Plan assets to pay all such benefits then, the order of allocation specified in Section 4044 of ERISA shall be used by the Committee as a guideline in making distributions. In the event that there are residual assets in the Trust, after satisfaction of all liabilities of Plan to Participants and their Beneficiaries, such residual assets shall be distributed to CHW.

13.03 Exclusive Benefit of Participants

Except as otherwise provided in Sections 6.02, 13.02 and 14.02, no part of the corpus or income of the Trust Fund may be used for, or diverted to, purposes other than the payment of benefits to Participants and Beneficiaries and for reasonable expenses of Plan administration.

If all liabilities of the Plan to Participants, Beneficiaries, and other parties are satisfied and any Plan assets remain due to an actuarial error, such assets will be distributed to Catholic Healthcare West.

13.04 Plan Merger and Consolidation

In the event that the Plan and Trust Fund merges or consolidates with, or transfers its assets or liabilities to, any other qualified plan of deferred compensation, no Participant herein shall, solely on account of such merger, consolidation or transfer, have an Accrued Benefit on the day following such event which is less than his Accrued Benefit on the day

preceding such event. For the purpose of this Section, a Participant's Accrued Benefit shall be calculated based upon the assumption that a plan termination and distribution of assets occurred on each of the above-mentioned days. In no event will this provision be construed to require full vesting upon a merger, consolidation, or transfer of assets unless the Plan is subsequently partially or wholly terminated.

13.05 Restrictions on Benefits Payable to Highly Compensated Employees upon Plan Termination Upon the termination of this Plan, the benefit of any highly compensated employee as defined in Code Section 414(q) and any highly compensated former employee as defined in Code Section 414(q)(a) shall be limited, as required, to a benefit that is nondiscriminatory under Code Section 401(a)(4).

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ARTICLE XV
ADOPTION OF THE PLAN BY EMLOYER AND AFFILIATED EMPLOYERS

15.01 Purpose

The purpose of this Article XV is to describe the terms and conditions under which an Affiliated Employer may adopt and become an Employer under this Plan.

15.02 Process to Adopt by Affiliated Employer

Any Affiliated Employer may, with the written consent of Catholic Healthcare West, become an Employer under this Plan Document by adopting the Plan through the execution of a subscription agreement or this Plan Document. Any Affiliated Employer who adopts this Plan does, by so adopting this Plan, agrees:

(a) To be bound by all the provisions of the Plan and Trust, as the same be amended by the Board from time to time, in the manner set forth herein;

(b) To pay its share of the expenses of the Plan and Trust as they may be determined from time to time in the manner specified in this Article 15; and

(c) To provide Catholic Healthcare West, the Committee and the Trust with full, complete and timely information on all matters necessary to them in the operation of this Plan and Trust.

15.03 Agreement by Affiliated Employer

In the event of the adoption of this Plan by an Affiliated Employer the following shall apply with respect to the participation of such Affiliated Employer as an Employer hereunder:

(a) All the terms and conditions of the Plan as the same may be amended from time to time, shall apply to the participation of such Affiliated Employer and its Employees in the same manner as set forth for any Employer and its Employees.

(b) In the operation of the Plan with respect to such Affiliated Employers the term "Effective Date" shall mean the effective date set forth in this Agreement or such other date as specified in Appendix B such Affiliated Employer's subscription agreement.

15.04 Termination of Participation of Affiliated Employer

Contingent on CHW approval, any Employer may at any time elect to terminate its participation in

this Plan. Termination of the participation of any Employer shall not affect the participation of any other Employer nor terminate the Plan with respect to them and their Employees; provided, however, that if Catholic Healthcare West terminated its participation, then the Plan itself shall be deemed to be terminated.

15.05 Affiliated Employer Liability

Each Employer shall be liable for and shall pay its fair share of the expenses of operating the Plan and Trust, including its share of any Trustee's fees. The amount of such charges to each Employer shall be determined by the Committee in its sole discretion. Expenses relating to the operation of the Plan and Trust may be paid directly by the Trust, or by each Employer, at the sole discretion of the Committee.

IN WITNESS WHEREOF, Catholic Healthcare West has caused this restated Plan document for the CHW Retirement Plan to be executed by its duly authorized officers, effective January 1, 2005 or as stated in this Plan document.

For Catholic Healthcare West

By: /s/ Ernest H Urquhart
Printed Name: Ernest H. Urquhart
Title: SVP/CHRO

By: /s/ Lloyd Dean
Printed Name: Lloyd Dean
Title: President/CEO

By: _____
Printed Name: _____
Title: _____

Date: _____

DIGNITY HEALTH MISSION INTEGRITY COMMITTEE CHARTER

September 23, 2012

I. PURPOSE

Pursuant to the legacy of the Sponsors[1], Dignity Health is committed to continuing a healing ministry based on the life and works of Jesus in Dignity Health's provision of healthcare services (the "healing ministry"). Accordingly, Dignity Health's Mission Integrity Committee is responsible for providing Dignity Health and the Board of Directors with advice and guidance regarding the healing ministry of Dignity Health, its Health Facilities, Subsidiaries and affiliates. This includes responsibility for the operational integrity and effectiveness of:

- Mission and Values
  - Policies and procedures regarding mission and values
  - Mission Statement
  - Mission Integration Standards
  - Mission integration reports
  - Systems that monitor compliance with mission and values
  - Evaluation and resolution of issues that impact conformity to the mission and values
- Statement of Common Values

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[1] Unless otherwise defined in the body of this Sponsorship Council Charter, capitalized terms are defined as set forth in the Matrix.

- Ministry leadership formation, including board and executive education and formation
- Pastoral care and clinical pastoral education programs

The Mission Integrity Committee has the additional power and responsibility to review and monitor Dignity Health's

- Labor practices
- Pension administration

In fulfilling its purpose, the Mission Integrity Committee will report and make recommendations to the Board of Directors as required by Dignity Health's bylaws and consistent with the mission and values of the healing ministry.

II. MEMBERSHIP/QUALIFICATIONS

A. To assist Dignity Health in preserving the legacy of the Sponsors, the Sponsorship Council will inform Dignity Health's healing ministry for all of Dignity Health's Health Facilities, Subsidiaries and affiliates by appointing three (3) members, chosen in the Sponsorship Council's sole discretion, to Dignity Health's Mission Integrity Committee.

B. The Mission Integrity Committee shall be composed of not less than seven (7) members, of which two must be members of the Board of Directors. Committee members and the Committee Chairperson are appointed annually by the chairperson of the Board of Directors with approval of the Board of Directors, provided that three of the Committee members will be appointees chosen by the Sponsorship Council

as indicated above. A vice chairperson may also be appointed by the Board of Directors, at their discretion, in which case he/she shall serve in the capacity of the chairperson in the event of their absence or other inability to serve. Both the Committee chairperson and vice chairperson must be members of the Board of Directors.

C. Members of the Mission Integrity Committee will have an understanding of mission driven health care and be committed to Dignity Health's healing ministry, as expressed in its mission, its core values and its Mission integration Standards. At least one member will have significant experience at a system level as a mission integration executive with responsibility for operational mission effectiveness. One or more members will also have competencies relating to the following healthcare mission integration dimensions:

1. Organizational identity.
2. Spirituality in the workplace and professional spiritual care provided in health care facilities
3. Ethical principles and issues.
4. Community and population health management.

III. AUTHORITY AND RESPONSIBILITIES

The Mission Integrity Committee will meet not less than quarterly, but may, in its discretion, meet more frequently. Meetings may be in-person or by telephone or video conference. A majority of the members of the Committee will constitute a quorum.

In order to fulfill its responsibilities, the Mission Integrity Committee will have direct access to Dignity Health's personnel and documents, and will have authority to conduct any investigation into any matters appropriate to fulfilling its responsibilities. The Mission Integrity Committee may retain at Dignity Health's expense, special legal, accounting, theological or other consultants, experts, and advisors of its choice that it deems necessary in performance of its duties.

Dignity Health shall provide appropriate funding, as determined by the Mission Integrity Committee, for payment of (1) reasonable compensation to any outside advisors retained by the Mission Integrity Committee pursuant to this Charter, and (2) ordinary administrative expenses of the Mission Integrity Committee that are appropriate in carrying out its duties pursuant to this Charter.

Mission Integration Operational Effectiveness for the Corporation's Health Facilities

In carrying out the following duties and responsibilities, the Mission Integrity Committee will:

A. Evaluate and resolve management, operational and patient care issues that impact conformity with the mission and values of the healing ministry in the operations of Dignity Health and its Health Facilities, Subsidiaries and Affiliates.

B. Approve policies and procedures with respect to implementation and consistent application of the mission and values of the healing ministry, in consultation with the Sponsorship Council, as the Mission Integrity Committee deems appropriate.

C. Establish and maintain systems for monitoring compliance with the mission and values of the healing ministry.

D. Review and make recommendations regarding any other aspect of the operational effectiveness of Dignity Health's healing ministry, including:

1. Operational integrity of the Statement of Common Values.

2. Operational integrity of Mission Integration Standards, including standards with indicators for:

i. Organizational Identity, including (a) board and management orientation; and (b) education and formation in ministry leadership, the Statement of Common Values and the mission, culture, and charism of the Sponsors.

ii. Spirituality, including spiritual care services to patients, families and caregivers, that promote spirituality in the lives of employees and in the work of the organization, and that are offered in a manner sensitive to the cultural and faith diversity of the persons served, attention to the healing environment as reflected in the Health Facilities, including dedicated sacred space and celebrations and ceremonies offered with respect for the cultural and faith diversity of the persons served;

iii. Ethics, including ethical integrity in organization and business practices and in patient care, and the application of

the Statement of Common Values and related ethical principles to the activities of the healing ministry;

iv. Community Health, including advocacy for those who are poor and disenfranchised, community partnerships designed to improve the quality of life and that address social, political and economic structures that impact the health of persons, especially the most vulnerable, and responsible stewardship of the environment including partnerships that advance ecological initiatives.

3. Ministry leadership formation programs throughout Dignity Health's Health Facilities and Subsidiaries.

4. Pastoral care and clinical pastoral education programs provided in the Health Facilities,

E. Review and monitor Dignity Health's labor practices and pension administration as follows:

1. The three Mission Integrity Committee members appointed by the Sponsorship Council shall approve the appointment of the members to the Retirement Plans Committee (a subcommittee of the Dignity Health. Human Resources Compensation Committee), consistent with the Human Resources and Compensation Committee Charter, on an annual basis. The Human Resources and Compensation Committee will identify and nominate Retirement Plans Committee members chosen for particular

expertise related to retirement plan administration and forward their names and background information to the Mission Integrity Committee for such approval. One member of the Retirement Plan Committee shall be a member of the Mission Integrity Committee who was appointed by the Sponsorship Council.

2. The Mission Integrity Committee member who is appointed to the Retirement Plans Committee shall be responsible for informing the Mission Integrity Committee of the work and developments of the Retirement Plans Committee, in order that the Mission Integrity Committee can assure that the retirement plans of Dignity Health are administered by the Retirement Plans Committee with the teachings and tenets of the Roman Catholic Church and understanding of the Sponsors in mind.

3. The Mission Integrity Committee shall receive periodic reports on developments in the labor practices of Dignity Health, with the authority to request reports and updates as it deems necessary, in order for the Mission Integrity Committee to monitor such labor practices with the teachings and tenets of the Roman Catholic Church and understanding of the Sponsors in mind.

F. Implement and oversee board formation programs for members of the Board of Directors, which may include executives of Dignity Health and members of subsidiary boards, Health Facility boards and fundraising foundation boards. Such board formation programs will be

designed to educate about the healing ministry and the mission, culture and charism of the Sponsors.

G. Propose revisions to (a) the Mission Statement; (b) the Mission Integration Standards and/or (c) the Statement of Common Values or its mode of implementation. The Mission Integrity Committee will provide the Sponsorship Council with any such proposed revisions, and the Sponsorship Council shall have the sole power to veto any proposed changes before they are presented to the Board. As long as the Sponsorship Council has not voted to veto or postpone any such proposal, the Mission Integrity Committee may request approval of the Board. Board approval is required for all such changes before they become final..

H. In consultation with the Sponsorship Council, reviews Dignity Health's Annual Mission Integration Report, prior to its submission to the Board of Directors, and make recommendations regarding the healing ministry for consideration by the Dignity Health Board.

I. Meet at least annually with senior management and Board representatives, in order to provide advice and guidance regarding important aspects of the healing ministry included in this Charter.

J. Endorse and encourage Mission Integrity Committee education and dialogue relative to emerging issues of mission integrity, or other areas of responsibility noted in this Charter, in order to strengthen Dignity Health's healing ministry.

K. Retain and engage outside advisors, including counsel, as the Mission Integrity Committee

determines to be necessary to cam/ out its duties. Notify the Chief Financial Officer, or his or her delegate, of funding needs to provide reasonable compensation for any advisors engaged by the Mission Integrity Committee.

L. Except as otherwise provided in Dignity Health's bylaws or the Governance Matrix attached to the bylaws as Exhibit A, the Mission Integrity Committee will develop policies and procedures that it determines are useful in fulfilling the responsibilities included in this Charter.

M. Obtain the Board of Directors' approval of this Charter and review and reassess this Charter as conditions dictate and make recommendations to the Board where appropriate to amend this Charter.

IV. MISSION INTEGRITY COMMITTEE MEETING FORMAT

A. In keeping with its purpose to strengthen the healing ministry of Dignity Health, Mission Integrity Committee meetings will begin with a reflection.

B. Concise briefing materials will be provided in advance, with the expectation that Mission Integrity Committee members will review documents prior to the meeting.

C. Presentations will be focused, with an emphasis on key issues to be addressed, decisions to be made, and information to be shared that is critical to the charge of the Mission Integrity Committee.

D. Emphasis during the Mission Integrity Committee meetings will be on active Mission

Integrity Committee discussions versus staff presentations.

E. Mission Integrity Committee members are encouraged to actively participate in Mission Integrity Committee discussions, and will follow, when it deems appropriate, the vales-based decision-making process developed by Dignity Health.

F. A Mission Integrity Committee Self-Evaluation will be completed no less than every two years to determine the effectiveness of the Committee and identify opportunities for improvement for the Committee to effectively discharge its duties.

G. The Mission Integrity Committee will maintain written minutes of its meetings and will file such minutes with the Board of Directors.

V. STAFFING

The Mission Integrity Committee will at all times have staff provided b Dignity Health available to conduct its business. The positions responsible to the Mission Integrity Committee include

Executive Vice President, Sponsorship, Mission Integrity and Philanthropy

Senior Vice President, Mission Integration & Spirituality

The Mission Integrity Committee Charter was approved by the Mission Integrity Committee, on September 23, 2012, with the revisions made to the three items under III E.

/s/ Judy Carle — September 23, 2012

Judy Carle, RSM — Date

Chair